

INDUSTRIAL TRIBUNAL

**COURT #2 FREEPORT INSURANCE CENTER, 21B WEST MALL & POINCIANA
DRIVE, FREEPORT, GRAND BAHAMA, COMMONWEALTH OF THE BAHAMAS**

Before

MRS. HELEN J. ALMORALES-JONES (VICE-PRESIDENT)

(SITTING ALONE)

ELEONORE DEVILLERS

APPLICANT

ISLAND WIFI LIMITED
Trading As MY ISLAND WIFI

RESPONDENT

ORDER ON DIRECTIONS

APPEARANCES

For the Applicant

Pro se
Freeport, Grand Bahama
The Bahamas

For the Respondent

None

WHEREAS:

- 1) On the 4th September, 2023, **Eleonore Devillers** ("the Applicant") filed a **Report of a Trade Dispute** against **My Island Wifi** ("the Respondent") with **The Department of Labour** in Grand Bahama, The Bahamas, which stated, inter alia, that the issues relevant to the dispute were *Vacation pay, Notice pay, Severance pay, Wrongful Dismissal and Unfair Dismissal*;
- 2) By a **Certificate of Referral** dated the 31st October, 2023 (received on the 13th November, 2023), the Honourable Minister of Labour & The Public Service ("the Minister") referred the said trade dispute to the Industrial Tribunal, Northern Region, ("the Tribunal");
- 3) In accordance with **Rule 3(1) of The Industrial Relations (Tribunal Procedure) Rules, 2010 ("The Rules")**, on the 14th November, 2023, the Tribunal served the **Applicant** with notice of the referral;
- 4) The Applicant filed a **Form A** (Originating Application) on the 17th November, 2023, which stated, inter alia, that she was claiming *Vacation pay, Notice pay, Severance pay and Overtime pay for working in excess of the standard hours of work and on public holidays*;
- 5) On the 17th November, 2023, the Tribunal served a copy of the **Form A** (Originating Application), a **Form C** (Notice of Originating Application) and a blank a **Form D** (Notice of Appearance) on the Respondent's registered office, the Law Chambers of *Kevin M. Russell & Co.* (received by *Robert Taylor*);
- 6) The **Respondent** failed to file a **Form D** (Notice of Appearance) within the 7 days limited for so doing by **Rule 5(1) of The Rules**;
- 7) On the 28th November, 2023, the Tribunal served a blank **Form E** (Defence) on the Respondent's registered office (received by *Desireé Russell*);
- 8) The **Respondent** failed to file a **Form E** (Defence) within the 14 days limited for so doing by **Rule 6 of The Rules**;
- 9) The Tribunal served a **Form J** (Notice of Hearing) setting this matter for Case Management at 10:00 a.m. today [served on the Applicant on the 12th December, 2023 and on the Respondent's registered office on the 11th December, 2023 (received by *Elaine Taylor*)];
- 10) Only the Applicant appeared at the **Case Management** hearing today;

- 11)The Applicant produced a copy of the Respondent's **Certificate of Incorporation**, which showed that it was incorporated on the 31st August, 2017 in the name of **Island Wifi Limited**;
- 12)Pursuant to **Section 59(1)(b)(ii)** of **The Industrial Relations Act** ("The **I.R.A.**") and **Rule 16(1)** and **(2)** of **The Rules**, the Tribunal, of its own motion, joined **ISLAND WIFI LIMITED, Trading as MY ISLAND WIFI** as the Respondent and dismissed **MY ISLAND WIFI** from the proceedings;
- 13)Counsel Kevin M. Russell sent the Tribunal:-
- a copy of the **Statement** (dated the 14th September, 2018) the Respondent filed at The Registrar General's Department on the 19th July, 2018, which named him as the Respondent's President/Director; and
 - 2 letters (dated the 12th December, 2023 and 2nd January, 2024) advising that **The Grand Bahama Port Authority** cancelled the Respondent's Company (Business) licence on the 4th February, 2020, and he had resigned as Secretary of the Respondent on the 8th April, 2020;
- 14)The **Applicant** produced a copy of an unsigned **Employment Agreement** dated the 1st April, 2019, which she said the Respondent had e-mailed her;
- 15)The **Tribunal** directed that the Applicant produce written particulars of her claim for **Unfair Dismissal** at trial;
- 16)The **Tribunal** advised the Applicant that:-
- The grounds for the Tribunal assuming jurisdiction over a trade dispute is the *Certificate of Referral* it receives from the Minister (**New Providence Building Supplies, Ltd. v. Richard Lee Thompson**, 58/2000, Bahamas Court of Appeal);
 - The Tribunal has jurisdiction to hear **only** the matters the Minister refers to it and has no statutory or inherent jurisdiction to allow a party to proceed with a claim that was not referred by the Minister (**Island Hotel Company Limited v. John Fox**, 54/2017, Bahamas Court of Appeal);
 - Therefore, the Tribunal has no jurisdiction to hear her claim for *Overtime pay*, as she did not list it as an issue relevant to the dispute in The Report of Trade Dispute she filed against the Respondent at The Department of Labour; and
 - The unsigned Employment Agreement she produced did not state that the Respondent must pay her Overtime pay and **Section 8(4)** of **The Employment Act, Cap. 321A**, provides that the Sections relating to Overtime pay do not apply to persons holding a supervisory or managerial position and she alleges that she held the position of *Sales Manager* at the Respondent;

- 17)The **Applicant** advised that she will testify and call 1 witness on her behalf;
- 18)The **Tribunal** estimated that the trial may last 1 day;
- 19)The **Tribunal** elected to receive the witnesses' testimony *viva voce* as the Applicant is a lay person; and
- 20)The **Tribunal** directed that the parties:
- produce the original (if available) and 3 copies of all documents upon which they will be relying at the trial; and
 - file any **Written Representations** at least 7 days before the trial date [in accordance with **Rule 3(6)** of **The Rules**];

IT IS HEREBY ORDERED as follows:-

1. This matter is adjourned for **trial** at 10:00 a.m. on Wednesday, 21st February, 2024;
2. The **Applicant** provide the Tribunal with written particulars of her claim for ***Unfair Dismissal*** at trial;
3. The **parties** file any **Written Representations** by on or before Wednesday, 14th February, 2024, at the same time, serve a copy thereof on the other party; and
4. The Tribunal serve this **Order On Directions** and a **Form J** (Notice of Hearing) for trial on the Applicant and the Respondent's registered office (in person) and on the Respondent's Owner/Chief Executive Officer, *Whitney Leo Tripp* and Chief Operations Officer, *Leanne Rozelle* (via e-mail).

DATED: This 24th day of January, A.D., 2024.

**Her Honor, Helen J. Almorales-Jones,
Vice-President**