

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)

JASON PRATT

APPLICANT

AML FOODS (COST RIGHT) FREEPORT

RESPONDENT

ORDER ON DIRECTIONS

APPEARANCES

For the Applicant

Pro se
Freeport, Grand Bahama
The Bahamas

For the Respondent

Ms. Tanya Russell
Human Resources Manager
Freeport, Grand Bahama
The Bahamas

WHEREAS:

- 1) On the 21st August, 2023, **Jason Pratt** ("the Applicant") filed a **Report of a Trade Dispute** against **AML Food Cost Right Freeport** at **The Department of Labour** ("DOL") in Grand Bahama, The Bahamas, which stated, inter alia, that the issue relevant to the dispute was *Wrongful Dismissal* and *Unfair Dismissal*;
- 2) By a **Certificate of Referral** dated the 29th September, 2023 (received on the 7th November, 2023), the Honourable Minister of Labour & The Public Service referred the trade dispute between the Applicant and **AML Foods (Cost Right) Freeport** ("the Respondent") 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 8th November, 2023, the Tribunal served the **Applicant** with notice of the referral;
- 4) On the 8th November, 2023, the Applicant filed a **Form A** (Originating Application), which stated, inter alia, that:
 7. His **employment began** on 10th November, 2022;
His **termination date** was the Aug. 21;
 8. His **basic wages/salary** was \$ 450.00 per week; and
 11. The **grounds for his application** was that the Respondent has caused he was wrongfully dismissed for major breach of Theft and Meat Handling and label process of A.M.L. Limited;
- 5) On the 9th November, 2023, the Tribunal served a copy of the **Form A** (Originating Application), a **Form C** (Notice of Originating Application) and a blank **Form D** (Notice of Appearance) on the Respondent (received by *Tanya Russell*);
- 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 21st November, 2023, the Respondent filed a **Form D** (Notice of Appearance), which stated that:-
 - it intended to resist the application;
 - its name was **AML Foods Limited**; and
 - the name of its Representative was *Kimberley Bodie, Head of Human Resources*;
- 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) On the 14th December, 2023, the Respondent filed:-

- a **Form L** (Notice of Application For Extension of Time) applying for leave to file a **Form D** (Notice of Appearance) and a **Form E** (Defence) after the time limited for so doing had expired; and
- a **Form E** (Defence), which stated, inter alia, that:-
 - The Applicant was **dismissed**;
 - The **reason for his dismissal** was *Major breach of Theft and the Meat Handling & Label process*;
 - The **dates he gave as to his period of employment** was not correct;
 - His employment commenced on the 3rd October, 2022;
 - He was terminated on the 21st August, 2023;
 - The **details of remuneration** he stated was not correct;
 - His **correct remuneration** was *\$ 350 per week, plus a stipend of \$ 100.00*; and
 - The **particulars of the Grounds on which the Respondent intends to resist the application** were that:- On the 30th July, 2023, the Applicant completed a meat purchase sales transaction, where he was observed purchasing pork chops that he packaged in the Meat Room and subsequently purchased under a meat item code that was not pork chop, for a price that was considerably less; his receipt indicated Bone-In stew, which is a code for scraps; however, the surveillance footage clearly showed whole pieces of pork chop being packaged and purchased;

10)The Tribunal conducted a **Case Management** hearing at 10:00 a.m. today (15th February, 2024);

11)The **Applicant** appeared *pro se* and the Respondent's Human Resources Manager for Grand Bahama appeared on behalf of the Respondent's Representative, who advised the Tribunal (by letter) that she was out of office today;

12)The **Tribunal** granted leave to the Respondent to file the **Form D** (Notice of Appearance) and **Form E** (Defence) after the time limited for so doing had expired;

13)Both **partied agreed** that only 1 conciliation meeting was held at The DOL;

14)The Tribunal directed that the **Respondent** produce a copy of the Respondent's **Certificate of Incorporation** for the Tribunal to verify its correct name;

15)The **Applicant** agreed that his employment with the Respondent commenced on the 3rd October, 2022 (the date stated in the Respondent's Form E, Defence, and not on the 10th November, 2022 (the date stated in his Form A, Originating Application));

- 16)The **Respondent's Representative** advised that:- the Applicant's rate of pay was \$ 350.00 per week; the Respondent only paid him the \$ 100.00 per week stipend when he actually worked in his position; it was paid to him because he was performing additional duties as Acting Department Head; and his Vacation pay was paid at the rate of \$ 350.00 per week;
- 17)The **Tribunal** advised the parties that "*Notice pay*" is the pay the employee would have received if the employer had permitted him to work during the notice period, so if the Applicant succeeds in proving his claim for Wrongful Dismissal, his pay in lieu of notice must be calculated at \$ 450.00 per week (not \$ 350.00);
- 18)The Tribunal directed that the **Applicant** produce written particulars of his claim for **Unfair Dismissal** (exactly what he is saying was unfair about his dismissal) to the Tribunal and the Respondent's Representative within 14 days from today;
- 19)The **Applicant** maintained that the surveillance video footage the Respondent is referring to shows him purchasing Bone-In stew and not pork chop;
- 20)The **Applicant** advised that he will testify and call about 2 witnesses on his behalf;
- 21)The **Respondent's Representative** advised that the Respondent may call about 2 or 3 witnesses in its defence;
- 22)The **Tribunal** estimated that the trial may last 2 days;
- 23)The **Tribunal** elected to receive the Witnesses' testimonies *viva voce* as neither party is represented by Counsel;
- 24)The **Tribunal** directed that the parties produce at trial the original and 3 copies of all documents they intend to rely on in support of their claims/defence; and
- 25)The **Tribunal** advised the parties that **Rule 3(6) of The Rules** provides that an unrepresented party may submit **Written Representations** to the Tribunal at least 7 days prior to the commencement of the hearing;

IT IS HEREBY ORDERED THAT:-

1. This matter is adjourned to **10:00 a.m. on Wednesday, 1st and Thursday, 2nd May, 2024**, for trial;
2. The **Respondent's Representative** produce a copy of the Respondent's **Certificate of Incorporation** at trial;

3. The **Applicant** produce **written particulars** of his claim for *Unfair Dismissal* to the Tribunal and the Respondent's Representative by **Thursday, 29th February, 2024**;
4. The **parties** produce at trial, **the original** and **3 copies** of all documents they intend to rely on in support of their claim/defence;
5. The **parties** file with the Tribunal and serve on the opposite party any **Written Representations** by **Wednesday, 24th April, 2024**; and
6. The Tribunal serve a new **Form J** (Notice of Hearing) for trial on both parties.

DATED: This 15th day of February, A.D., 2024.

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