

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)

CRYSTAL SMITH

APPLICANT

CABLE BAHAMAS LTD.

RESPONDENT

ORDER ON DIRECTIONS

APPEARANCES

For the Applicant

Julian D. Russell
Labour Advocate
Freeport, Grand Bahama
The Bahamas

For the Respondent

Counsel, Ms. Lavette Kemp
Graham Thompson
Freeport, Grand Bahama
The Bahamas

WHEREAS:

- 1) On the 15th June, 2023, **Crystal Smith** ("the Applicant") filed a **Report of a Trade Dispute** against **Cable Bahamas Group of Companies** ("the Respondent") with The Department of Labour in Grand Bahama, The Bahamas, which stated, inter alia, that the issues relevant to the dispute were (sic):-

Victimization/Discrimination (Sec. 60) 7 Employment Act, Section 34, 35, Right not to be unfairly terminated (Employment Act), Wrongful Dismissal, Section 26 Constitution (Common law), Article 7, Section 60 I.R.A., S. 82A, 160, 107 IRA;

- 2) By a **Certificate of Referral** dated the 13th July, 2023 (received on the 27th July, 2023), the Honourable Minister of Labour & Immigration referred the trade dispute between the parties to the Industrial Tribunal, Northern Region, ("the Tribunal");
- 3) The Tribunal served the **Applicant** with notice of the referral on the 28th July, 2023;
- 4) On the 1st August, 2023, the **Applicant** filed a **Form A** (Originating Application) which stated, inter alia, that the Grounds for her application were (sic):-

Issue of Wrongful Dismissal, Unfair Dismissal, Sec. 33 -34, 35; Section 107, 106-105 IRA; Warning and representation if the employee breaches rules will be fired; Discrimination/Victimization, Section 6 Employment Act. Relief sought that the Applicant be re-instated to their position; that Company compensate employee for loss of revenue; that an award of a year's salary be made for relief of Job Termination;

- 5) On the 2nd August, 2023, the Tribunal served a copy of the **Form A** (Originating Application) together with a **Form C** (Notice of Originating Application) and a **Form D** (Notice of Appearance) on the **Respondent's place of business**;
- 6) The **Respondent** failed to file a **Form D** (Notice of Appearance) or **Form E** (Defence) within the time limited for so doing by **Rules 4** and **6** of **The Industrial Relations (Tribunal Procedure) Rules, 2010** ("The Rules");
- 7) The **Tribunal** today conducted a **Case Management** hearing in this matter;
- 8) The Tribunal had the parties' **Representatives** exchange e-mail addresses for the purpose of communicating and serving each other with documents as the Applicant's Representative is not a registered user of the Tribunal's E-filing portal;

- 9) The **Respondent** today filed:- a **Form L** (Notice of Application for Extension of Time) seeking an extension of time to file the Forms D and E; and a **Form D** (Notice of Appearance), which the Tribunal served on the Applicant's Representative;
- 10)The **Tribunal** acceded to the Respondent's **Form L** (Notice of Application for Extension of Time), validated the Respondent's late filing of the **Form D** (Notice of Appearance) and gave the Respondent an extension of 14 days from today to file a **Form E** (Defence);
- 11)The Respondent's **Form D** (Notice of Appearance) stated, inter alia, that its name is **Cable Bahamas Ltd.**;
- 12)The Tribunal directed that the **Respondent** e-mail the Tribunal and the Applicant's Representative a copy of the Respondent's Certificate of Incorporation;
- 13)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** and with the consent of the Respondent's Representative, the Tribunal acceded to the Applicant's **Form M** (Notice of Joinder of Parties) application and joined **Cable Bahamas Ltd.** as a party (the Respondent) and dismissed **Cable Bahamas Group of Companies** from the proceedings;
- 14)The Tribunal today served the Respondent's Counsel with a copy of the **Form F** (Notice for Further and Better Particulars) filed by the Applicant's Representative, which requested that the Respondent:-
- Furnish him with the following further and better particulars:-
Employment Handbook, Contract of service, Record of Results the Respondent relied on to terminate the Applicant, the person and procedure to order a termination, Grievance Procedure, Reinstatement, Schedule & Report of Sick Days; and
 - Produce for inspection at the Tribunal, the following documents:-
Evaluation Forms, Warning slips, Adverse Reports (Management), Employee Handbook, Contract of service, Salary slips, Employee file; and Work Schedules;
- 15)The Tribunal directed that the **Applicant's Representative** e-mail the Tribunal and the Respondent's Counsel excerpts of all the legal references he made at No. 5 of **The Report of a Trade Dispute Form** and No. 11 of the **Form A** (Originating Application);

16) In answer to Applicant's **Form F** (Notice for Further and Better Particulars), the Tribunal directed that the **Respondent** serve the Tribunal and the Applicant's Representative with copies of the following items by Friday, 29th September, 2023:-

The duly signed Employment contract, Termination letter & Deed of Release; the Employee Handbook; any Report(s) of the investigation; the record of all Sick days taken by the Applicant; and copies of all e-mails exchanged between the Applicant and the Respondent's personnel;

17) **Both parties** agreed that 1 conciliation meeting was held at The Department of Labour, which did not resolve any of the issues relevant to the dispute;

18) Pursuant to **Section 58(1)(a)** of **The I.R.A.**, the Tribunal remitted the issues of *Wrongful Dismissal* and *Unfair Dismissal* to the parties for further consideration, with a view to settling or reducing it;

19) The **Tribunal** recommended that the parties consider settling the Applicant's claims by the Respondent permitting the Applicant to work out the remaining 11 weeks of her fixed term contract or paying her the sum of **\$ 3,172.40**, representing 11 weeks' pay (at \$ 288.40 per week) and the Applicant withdrawing all her claims against the Respondent;

20) The **Applicant's Representative** advised that if the matter is not settled the Applicant will testify and call 1 witness on her behalf;

21) The **Respondent's Counsel** advised that the Respondent will call 3 witnesses in its defence;

22) The **Tribunal** estimated that the trial may last 2 days;

23) **Both parties** elected to:-

- file **Witness Statements** to serve as the witnesses' evidence-in-chief;
- have cross-examination and re-examination of the witnesses be taken *viva voce*; and
- file their **List of Documents** and **Bundle of Documents** together with the Witness Statements; and

24) The **Tribunal** advised the parties that The Rules require that they file any **Brief/ Skeleton Arguments** [pursuant to **Rule 3(5)**] or **Written Representations** [pursuant to **Rule 3(6)**] with the Tribunal at least 7 days before the trial date;

IT IS HEREBY ORDERED as follows:-

1. The **Respondent** file a **Form E** (Defence) within 14 days from today (by Thursday, 28th September, 2023);
2. The **Respondent** e-mail the Tribunal and the Applicant's Representative a copy of the Respondent's Certificate of Incorporation;
3. The **Applicant's Representative** e-mail the Tribunal and the Respondent's Counsel excerpts of all the legal references he made at No. 5 of The Report of a Trade Dispute Form and No. 11 of the Form A (Originating Application);
4. The **Respondent** serve the Tribunal and the Applicant's Representative with copies of the following items by Friday, 29th September, 2023:- *the duly signed Employment contract, Termination letter & Deed of Release; the Employee Handbook; any Report(s) of the investigation; the record of all Sick days taken by the Applicant; and copies of all e-mails exchanged between the Applicant and the Respondent's personnel;*
5. The trial be done at **10:00 a.m.** on **Monday, 27th** and **Tuesday, 28th November, 2023;**
6. The Applicant file her **Witness Statements, List of Documents** and **Bundle of Documents** with the Tribunal by **3:00 p.m.** on **Friday, 13th October, 2023,** and at the same time serve a copy thereof on the Respondent's Counsel;
7. The Respondent file its **Witness Statements, List of Documents** and **Bundle of Documents** with the Tribunal by **3:00 p.m.** on **Friday, 10th November, 2023,** and at the same time serve a copy thereof on the Applicant's Representative; and
8. Each party file any **Brief/Skeleton Arguments** or **Written Representations** with the Tribunal by **3:00 p.m.** on **Monday, 20th November, 2023,** and at the same time serve a copy thereof on the other party.

DATED: This 14th day of September, A.D., 2023.

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