

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)

VERILON ALCIME

APPLICANT

ENDEAVOR DEVELOPMENT INTERNATIONAL LTD.

RESPONDENT

ORDER ON DIRECTIONS

APPEARANCES

For the Applicant

Counsel, Cassietta M^cIntosh-Pelecanos
M^cIntosh & Co.
Freeport, Grand Bahama
The Bahamas

For the Respondent

Wallace R. Allen, Esquire
Cambridge Law Chambers
Holding brief for Ernie E. Wallace, Esquire
Wallace Law Chambers
Freeport, Grand Bahama
The Bahamas

WHEREAS:

- 1) On the 4th January, 2023, **Verilon Alcime** ("the Applicant") filed a **Report of a Trade Dispute** against **Endeavor Development International Limited** with The Department of Labour in Grand Bahama, The Bahamas, which stated, inter alia, that the issues relevant to the dispute were *Wrongful Dismissal, Unfair Dismissal and Constructive Dismissal*;
- 2) By a **Certificate of Referral** dated the 16th May, 2023 (received on the 5th July, 2023), the Honourable Minister of Labour & Immigration referred the trade dispute between the Applicant and **Endeavor Development International Ltd.** ("the Respondent") to the Industrial Tribunal, Northern Region, ("the Tribunal");
- 3) The Tribunal served the **Applicant** with notice of the referral on the 7th July, 2023;
- 4) On the 21st July, 2023, the **Applicant** filed a **Form A** (Originating Application) which stated, inter alia, that the Grounds for his application were:- *Wrongful Dismissal, Unfair Dismissal, Constructive Dismissal; the Respondent failed to pay Notice pay, Severance pay time worked nor Overtime owed; and the Respondent failed to roster the Applicant to work after he received an injury at work*;
- 5) On the 26th July, 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**;
- 6) On the 26th July, 2023, the **Respondent** filed a **Form D** (Notice of Appearance) and **Form E** (Defence);
- 7) The Respondent's **Form D** (Notice of Appearance) did not indicate whether or not it intended to resist the application and stated, inter alia, that the name of the Respondent was *Wallace Law Chambers, Ernie E. Wallace*;
- 8) The Respondent's **Form E** (Defence) stated, inter alia, that:-
 - the name of the Respondent was *Endeavor Dev. Int. Ltd.*;
 - the Applicant was not dismissed;
 - the dates given by the Applicant as to his period of employment were not correct;
 - the details of remuneration stated by the Applicant were not correct; and
 - the Respondent intends to resist the application on the grounds that the Respondent never hired the Applicant, who was hired in Abaco by persons who were not agents of the Respondent;

- 9) The Respondent's President gave written authorization for *Wallace R. Allen, Esquire* and the Respondent's Communications Director, *Peter Adderley*, to represent the Respondent, in the absence of its Counsel, *Ernie E. Wallace, Esquire*;
- 10) **The parties** agreed that 2 conciliation meetings were held at The Department of Labour and none of the issues relevant to the dispute were resolved;
- 11) The **Applicant's Counsel** advised that:-
- the Applicant did not sign an employment contract with the Respondent;
 - the Respondent did not have an Employee Handbook;
 - the Applicant will confirm the date the Applicant's employment commenced after it receives his National Insurance Board Detail Contribution History Report from The National Insurance Board;
 - on the 16th February, 2022, the Applicant was injured on the job;
 - in July 2022, the Applicant informed the Respondent that he was physically able to return to work, but the Respondent did not schedule him to work;
 - the Applicant accepted the Respondent's breach of their verbal employment contract and considered himself constructively dismissed from the date he filed this trade dispute against the Respondent (from 4th January, 2023);
 - the Applicant was not interested in re-instatement or re-engagement with the Respondent; and
 - the Applicant intends to file another action against the Respondent relative to the injury he suffered on the job;
- 12) The Tribunal directed that the **Applicant's Counsel** provide the Respondent's Counsel with particulars of the claim for *Unfair Dismissal* within 2 weeks;
- 13) The **Respondent's Counsel** advised that the Respondent was only the agent for a U.S. Company called "*Btree*", which was the Applicant's employer;
- 14) The **Applicant's Counsel** to decide whether or not to file a **Form M** (Notice of Joinder of Parties) applying to join *Btree* as a party to the proceedings;
- 15) The Tribunal directed that within 2 weeks, the **Respondent's Counsel** provide the Tribunal and the Applicant's Counsel with *Btree's* corporate name, e-mail address and the name & address of its registered office;
- 16) Pursuant to **Section 58(1)(a)** of **The Industrial Relations Act, Cap. 321**, the Tribunal remitted the issues to the parties for further consideration, with a view to settling or reducing it;

- 17)The **Applicant's Counsel** advised that only the Applicant will testify on his behalf and the **Respondent's Counsel** advised that the Respondent will call about 2 witnesses in its defence;
- 18)**Both parties** elected to have the witnesses give *viva voce* testimony and agreed to file their **List of Documents** and **Bundle of Documents** by the end of October 2023;
- 19)The **Tribunal** estimated that the trial may last 1 day; and
- 20)The **Tribunal** advised the parties that **Rule 3(5) of The Industrial Relations (Tribunal Procedure) Rules, 2010**, require that they file any **Brief/Skeleton Arguments** at least 7 days before the trial date;

IT IS HEREBY ORDERED as follows:-

1. The **Applicant's Counsel** provide the Tribunal and the Respondent's Counsel with particulars of the Applicant's claim for *Unfair Dismissal* by Monday, 18th September, 2023;
2. The **Respondent's Counsel** provide the Tribunal and the Applicant's Counsel with *Btree's* corporate name, e-mail address and the name & address of its registered office by Monday, 18th September, 2023;
3. The trial be done at **10:00 a.m. on Tuesday, 21st November, 2023**;
4. The parties file their **List of Documents** and **Bundle of Documents** with the Tribunal by **3:00 p.m. on Tuesday, 31st October, 2023**, and at the same time serve a copy thereof on the other party; and
5. The parties file their **Brief/Skeleton Arguments** (if any) with the Tribunal by **3:00 p.m. on Tuesday, 14th November, 2023**, and at the same time serve a copy thereof on the other party.

DATED: This 4th day of September, A.D., 2023.

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