

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)

KEDONNE CHARLES

APPLICANT

**SHERVIN BASTIAN &
DONNA BASTIAN
Trading as RONNIE'S BAKERY**

RESPONDENT

ORDER ON DIRECTIONS

APPEARANCES

For the Applicant

Mr. Lionel Morley
Labour Advocate
Freeport, Grand Bahama
The Bahamas

For the Respondent

Counsels, Harvey Tynes K.C. &
Mrs. Tanisha Tynes-Cambridge
Tynes & Tynes
Freeport, Grand Bahama
The Bahamas

WHEREAS:

- 1) On the 7th June, 2023, **Kedonne Charles** ("the Applicant") filed a **Report of a Trade Dispute** against **Ronnie's Bakery** ("the Respondent") with The Department of Labour in Grand Bahama, The Bahamas;
- 2) It stated, inter alia, that the issues relevant to the dispute were *Wrongful & Unfair Dismissal, Outstanding Vacation pay* and *Overtime pay – Saturday/Sundays*;
- 3) By a **Certificate of Referral** dated the 11th July, 2023 (received on the 27th July, 2023), the Honourable Minister of Labour & Immigration ("The Minister") referred the said trade dispute to the Industrial Tribunal, Northern Region, ("the Tribunal");
- 4) In accordance with **Rule 3(1) of The Industrial Relations (Tribunal Procedure) Rules, 2010 ("The Rules)**, on the 8th August, 2023, the Tribunal served the **Applicant** with notice of the referral;
- 5) The Applicant filed a **Form A** (Originating Application) on the 16th August, 2023, which stated, inter alia, that:-
 - the Applicant's employment began in *May 2001*;
 - the Applicant's basic wages/salary was *\$ 350.00 per week*; and
 - the grounds for the application were *Wrongful & Unfair Dismissal* and *Outstanding Vacation pay*;
- 6) In accordance with **Rule 4 of The Rules**, on the 16th August, 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 (received by *Rosemary Williams*);
- 7) In accordance with **Rule 5(1) of The Rules**, on the 17th August, 2023, the **Respondent** filed a **Form D** (Notice of Appearance) which stated, inter alia, that it intended to resist the application and its name is *Ronnie's Bakery, Owner – Shervin Bastian*;
- 8) In accordance with **Rule 6 of The Rules**, on the 22nd August, 2023, the Respondent filed a **Form E** (Defence) which stated, inter alia, that:-
 - the name of the Respondent was Shervin Bastian (Ronnie's Bakery);
 - the Applicant was dismissed for *Failure to report to work without explanation*;
 - the Applicant's employment commenced in *August 2001*;
 - the Applicant's correct remuneration was \$ 7.92 per hour; and
 - the Applicant's basic wage/salary was \$ 316.80 per week;

- 9) The Tribunal today (Wednesday, 27th September, 2023) conducted a **Case Management hearing** in this matter;
- 10)The Applicant appeared with her Representative and the Respondent's Counsels appeared with Shervin Bastian and Donna Bastian;
- 11)The Respondent's Counsels advised that the Respondent is an unincorporated business and is owned by Shervin and Donna Bastian (husband and wife respectively);
- 12)Pursuant to **Section 59(1)(b)(ii)** of **The Industrial Relations Act, Cap. 321** ("**The I.R.A.**") and **Rule 16(1) & (2)** of **The Rules**, and with the consent of both parties, the Tribunal, of its own motion, joined **Shervin Bastian & Donna Bastian, Trading As Ronnie's Bakery** as a party (the Respondent) and dismissed **Ronnie's Bakery** from the proceedings;
- 13)**Both parties** agreed that:-
- the subject working relationship was not governed by a written employment contract;
 - the Applicant held a line-staff position (Baker);
 - the Applicant's gross weekly basic pay was \$ 350.00 and net weekly pay was \$ 316.80; and
 - the Respondent will pay the Applicant 4.5 weeks' pay (\$ 1,425.60) in full settlement of her claim for *Vacation pay*;
- 14)The Tribunal identified the remaining **issues for trial** as:-
- Whether the Respondent owes the Applicant *Overtime pay* for working in excess of the standard hours of work and on public holidays;
 - Whether the Respondent dismissed the Applicant or the Applicant's words and conduct evinced her intention to terminate the employment contract; and
 - If the Tribunal finds that the Respondent had dismissed the Applicant, was the dismissal *wrongful* and/or *unfair*;
- 15)Pursuant to **Section 58(1)(a)** of **The I.R.A.**, the **Tribunal** remitted the dispute to the parties for further consideration, with a view to settling it out of Court;
- 16)The **Applicant's Representative** advised that if the matter proceeds to trial, the Applicant will testify and may call about 2 witnesses on her behalf;
- 17)The **Respondent's Counsel** advised that the Respondent will call 2 witnesses in its defence;

- 18)The **Tribunal** elected to have the witnesses give *viva voce* testimony at the trial;
- 19)The **Tribunal** estimated that the trial may last 2 days;
- 20)The **Tribunal** directed that the parties file their **List of Documents** and **Bundle of Documents** (if any) at least 2 weeks before the trial date; and
- 21)The **Tribunal** advised the parties that **Rule 3(5)** of **The Rules** provides that a Counsel/Representative appearing pursuant to **Section 57(3)** of **The I.R.A.** may submit a *Brief/Skeleton Arguments* to the Tribunal and serve a copy on the other party no later than 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, 29th November, 2023, for trial;
2. Both **parties** file their **List of Documents** and **Bundle of Documents** (if any) by Wednesday, 15th November, 2023, and at the same time serve a copy thereof on the other party's Representative; and
3. Both **parties** file their **Brief/Skeleton Arguments** (if any) by Wednesday, 22nd November, 2023, and at the same time serve a copy thereof on the other party's Representative.

AND THIS IS THE ORDER OF THE TRIBUNAL.

DATED: This 27th day of September, A.D., 2023.

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