

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 (ACTING PRESIDENT)

(SITTING ALONE)

HOLLYNA BAIN

APPLICANT

**PARADISE DELIVERY EXPRESS:
N & E ENTERPRISES LTD.**

RESPONDENT

ORDER ON DIRECTIONS

APPEARANCES

For the Applicant

Pro se
Bimini
The Bahamas

For the Respondent

Sherilyn V. Cooper
Respondent's President
Abaco,
The Bahamas

WHEREAS:

- 1) On the 17th January, 2024, **Hollyna Bain** ("the Applicant") filed a **Report of a Trade Dispute** against **Paradise Delivery Express: N & E Enterprises Ltd.** ("the Respondent") with The Department of Labour in Bimini, The Bahamas, which stated, inter alia, that the issue relevant to the dispute was:

Did not receive payment for 1 year; while working, operations were ended abruptly (October 2023); no payment of balance of \$ 2,406.00 has been made to date;

- 2) By a **Certificate of Referral** dated the 4th March, 2024 (received on the 20th March, 2024), the Honourable Minister of Labour & The Public Service referred the said trade dispute to the Industrial Tribunal, Northern Region, ("the Tribunal");
- 1) In accordance with **Rule 3(1) of The Industrial Relations (Tribunal Procedure) Rules, 2010 ("The Rules")**, on the 20th March, 2024, the Tribunal served the **Applicant** with notice of the referral;
- 2) The Applicant filed a **Form A** (Originating Application) on the 21st March, 2024;
- 3) On the 25th March, 2024, 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, via e-mail to its President (*Sherilyn V. Cooper*);
- 4) 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**;
- 5) On the 2nd April, 2024, the Tribunal served a blank **Form E** (Defence) on the Respondent via e-mail to its President;
- 6) On the 9th April, 2024, the **Respondent** filed:-
 - a **Form L** (Notice of Application for Extension of Time) seeking an extension of time to file a **Form D** (Notice of Appearance); and
 - a **Form D** (Notice of Appearance) which stated, inter alia, that it intended to resist the application, but did not state the name of its Representative;
- 7) On the 15th April, 2024, the **Respondent** filed a **Form E** (Defence) which stated, inter alia, that the Applicant was not dismissed and gave notice of resignation;

- 8) Both the **Form D** (Notice of Appearance) and **Form E** (Defence) stated that its name was **N & E Enterprises Ltd.**;
- 9) On the 27th May, 2024, the Tribunal conducted a **Case Management** hearing in this matter, with both parties appearing virtually (the Applicant from Bimini and the Respondent's Representative from Abaco);
- 10)The **Tribunal** directed that the **Respondent's Representative** produce to the Tribunal, as soon as practicable:-
- a copy of the Respondent's **Certificate of Referral** for the Court to ascertain the Respondent Company's correct name;
 - The name and address of the Respondent Company's registered office; &
 - Copies of all of the parties' Agreements/Contracts;
- 11)Pursuant to **Section 58(1)(a)** of **The Industrial Relations Act, Cap. 321**, the Tribunal remitted the dispute to the parties' Representatives for further consideration with a view to settling the issue of *Whether or not the Respondent owed the Applicant any outstanding Wages?*
- 12)The Tribunal advised the **Applicant** that she bears the burden of proving to the tribunal, on a balance of probabilities:-
- *Whether or not the Applicant worked for the Respondent pursuant to a contract of employment?; and*
 - *Whether or not the Respondent owed the Applicant any outstanding Wages after any deductions resulting from an audit?;*
- 13)The **Tribunal** directed that:-
- The **Respondent's Representative** e-mail the Audit Report and any written Queries to the Applicant by on or before 5:00 p.m. on Friday, 31st May, 2024;
 - The **Applicant** e-mail her written response to any written Queries to the Respondent by on or before 5:00 p.m. on Friday, 7th June, 2024;
 - The **Applicant** file a **Form K** (Notice of Withdrawal) if the parties have settled the matter and the Respondent has paid the Applicant the agreed sum of money;
 - The **Applicant** e-mail the Tribunal a written Agreement signed by both parties if they have settled the matter on terms that the Respondent pay the Applicant the agreed sum of money in instalments;

- 14)The **Tribunal** decided to have the witnesses give *viva voce* testimony;
- 15)The **Tribunal** estimated that the trial may last 1 day; and
- 16)**Rule 3(6)** of **The Rules** provides that the parties may submit **Written Representations** to the Tribunal at least 7 days prior to the commencement of the hearing;

IT IS HEREBY ORDERED as follows:-

1. This matter is adjourned **10:00 a.m.** on **Monday, 15th July, 2024**, for trial;
2. The **Respondent's Representative** e-mail the *Audit Report* and any *Written Queries* to the Applicant by on or before 5:00 p.m. on Friday, 31st May, 2024;
3. The **Applicant** e-mail her *Written Response* to any *Written Queries* to the Respondent's Representative by on or before 5:00 p.m. on Friday, 7th June, 2024;
4. **Both parties** e-mail the Tribunal all documents upon which they will be relying at trial;
5. Both parties file any **Written Representations** with the Tribunal by **Monday, 8th July, 2024**; and
6. The **Tribunal** serve this **Order On Directions** and a new **Form J** (Notice of Hearing) for trial on both parties.

DATED: This 27th day of May, A.D., 2024.

**Her Honor, Helen J. Almorales-Jones,
(Acting) President**