

**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)**

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**KENSON NELSON**

**APPLICANT**

**BRADFORD GRAND BAHAMA LIMITED**

**RESPONDENT**

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**ORDER ON DIRECTIONS**

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**APPEARANCES**

For the Applicant

Justin Palacious  
Labour Advocate  
Freeport, Grand Bahama  
The Bahamas

For the Respondent

Counsel, Karen Brown  
Higgs & Johnson  
Freeport, Grand Bahama  
The Bahamas

**WHEREAS:**

- 1) On the 4<sup>th</sup> January, 2024, **Kenson Nelson** ("the Applicant") filed a **Report of a Trade Dispute** against **Bradford Grand Bahama Limited** ("the Respondent") with The Department of Labour in Grand Bahama, The Bahamas, which stated, inter alia, that the issues relevant to the dispute were:-

*Unfair Dismissal, Wrongful Dismissal, Severance pay, Notice pay, Vacation pay, Unlawful Suspension & Breach of Section 4(1) of The Health & Safety Act (sic);*

- 2) By a **Certificate of Referral** dated the 21<sup>st</sup> February, 2024 (received on the 30<sup>th</sup> April, 2024), the Honourable Minister of Labour & Public Service referred the said trade dispute 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 30<sup>th</sup> April, 2024, the Tribunal served the **Applicant** with notice of the referral;
- 4) The Applicant filed a **Form A** (Originating Application) on the 3<sup>rd</sup> May, 2024;
- 5) On the 7<sup>th</sup> May, 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 (received by *Clinthera Wilson*);
- 6) On the 10<sup>th</sup> May, 2024, the **Respondent** filed a **Form D** (Notice of Appearance) which did not state whether or not it intended to resist the application;
- 7) On the 10<sup>th</sup> May, 2024, the Tribunal served a blank **Form E** (Defence) on the Chambers of the Respondent's Counsel (received by *Melissa Davis*);
- 8) On the 27<sup>th</sup> May, 2024, the **Respondent** filed a **Form E** (Defence) which stated, inter alia, that the Applicant was dismissed for Gross Misconduct and breach of the Respondent's policies;
- 9) The Tribunal today conducted a **Case Management** hearing in this matter;
- 10) 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 issues of:-
  - *The date the Applicant commenced employment with the Respondent?;*
  - *Whether or not the Respondent owed the Applicant Accrued Vacation pay?;*

- *Whether or not the Respondent unlawfully suspended the Applicant?;* &
- *Whether or not the Applicant held a supervisory/managerial position at the time of his dismissal;*

11)The Tribunal directed that the **Applicant's Representative** notify the Tribunal in writing, if the parties settled any of the above-stated issues;

12)The **Tribunal** undertook to send the parties' Representatives 2 cases that dealt with Employees fighting:-

- **Meakin v. Liverpool City Council Leisure Services Directorate** (UK Employment Appeal Tribunal Decision on *Unfair Dismissal*); and
- **Eloise Shantel Curtis-Rolle v. Doctor's Hospital (Bahamas) Limited** (Bahamas Court of Appeal Decision on *Wrongful Dismissal*);

13)The Tribunal requested that the **Parties' Representatives** exchange any legal authorities they have on the subject so they can evaluate the strengths and weaknesses of their respective positions with a view to settling the Applicant's claims for *Wrongful Dismissal* and *Unfair Dismissal*;

14)The **Applicant's Representative** advised that the Applicant will testify and call 2 witnesses on his behalf;

15)The **Respondent's Counsel** advised that the Respondent will possibly call 3 or 4 witnesses in its defence;

16)The **Tribunal** directed that the evidence-in-chief of the witnesses will be received in the form of written Witness Statements and they will give viva voce testimony in cross-examination and re-examination;

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

18)The Applicant's Representative today filed the **Applicant's List of Documents** and **Bundle of Documents**;

19)The Tribunal directed that the **Applicant's Representative** file:-

- **Further and Better Particulars** of the Applicant's claim for *Unfair Dismissal* and *Breach of Section 4(1) of The Health & Safety At Work Act, Cap. 321C* within 21 days from today; and
- **Witness Statements** for the Applicant and his witnesses within 14 days thereafter;

20)The Tribunal directed that the Respondent's Counsel file:-

- the **Respondent's List of Documents** and **Bundle of Documents** within 7 days after the deadline for the Applicant's Representative to file Further and Better Particulars; and
- **Witness Statements** for the Respondent's witnesses within 14 days thereafter; and

21)**Rule 3(5)** of **The Rules** provides that parties may submit a **Brief/Skeleton Arguments** 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 **Tuesday, 24<sup>th</sup>** and **Friday, 27<sup>th</sup> September, 2024**, for trial;
2. The Applicant's Representative file **Further and Better Particulars** of the Applicant's claim for *Unfair Dismissal* and *Breach of Section 4(1) of The Health & Safety At Work Act, Cap. 321C* by **Thursday, 1<sup>st</sup> August, 2024**;
3. The Respondent's Counsel file the **Respondent's List of Documents** and **Bundle of Documents** by **Friday, 9<sup>th</sup> August, 2024**;
4. The Applicant's Representative file **Witness Statements** for the Applicant and his witnesses by **Friday, 16<sup>th</sup> August, 2024**;
5. The Respondent's Counsel file **Witness Statements** for the Respondent's witnesses by **Monday, 2<sup>nd</sup> September, 2024**;
6. The parties' Representatives file any **Brief/Skeleton Arguments** with the Tribunal by **Tuesday, 17<sup>th</sup> September, 2024**; and
7. The **Tribunal** serve this **Order On Directions** and a new **Form J** (Notice of Hearing) for trial on both parties' Representatives.

**DATED: This 11<sup>th</sup> day of July, A.D., 2024.**

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