

INDUSTRIAL DISPUTES TRIBUNAL

Dispute No: IDT 4/2015

SETTLEMENT OF DISPUTE

BETWEEN

SUPER SAVE PHARMACY

AND

MISSES DORRET BELLANFANTE & MERLETTE
GRIFFITHS

AND THE

AWARD

I.D.T. DIVISION

MR. DONOVAN HUNTER	-	CHAIRMAN
MR. TREVOR GRAHAM, J.P.	-	MEMBER
MR. CLINTON LEWIS	-	MEMBER

JUNE 26, 2015

INDUSTRIAL DISPUTES TRIBUNAL

AWARD

IN RESPECT OF

AN INDUSTRIAL DISPUTE

BETWEEN

**SUPER SAVE PHARMACY
(THE COMPANY)**

AND

**MISSES DORRET BELLANFANTE & MERLETTE GRIFFITHS
(THE DISMISSED WORKERS)**

REFERENCE:

By letter dated January 29, 2015, the Honourable Minister of Labour and Social Security in accordance with Section 11A (1)(a)(i) of the Labour Relations and Industrial Disputes Act (hereinafter called "the Act"), referred to the Industrial Disputes Tribunal for settlement, in accordance with the following Terms of Reference, the industrial dispute described therein:-

The Terms of Reference were as follows:

"To determine and settle the dispute between Super Save Pharmacy on the one hand and Misses Dorret Bellanfante and Merletta Griffiths on the other hand over the termination of their employment."

DIVISION:

The Division of the Tribunal which was selected in accordance with Section 8(2) (c) of the Act and which dealt with the matter comprised:

- Mr. Donovan Hunter - Chairman
- Mr. Trevor Graham, J.P. - Member, Section 8(2) (c) (ii)
- Mr. Clinton Lewis - Member, Section 8(2) (c) (iii)

REPRESENTATIVES OF THE PARTIES:

The **Company** was represented by:

- Mr. Harold Brady - Attorney-at-Law
- Miss Rosemarie Fagan - Employer

The **dismissed workers**, Misses Dorret Bellanfante and Merletta Griffiths were represented by:

- Mr. Howard Duncan - Industrial Relations Consultant

In attendance:

- Miss Dorret Bellanfante - the Dismissed Worker
- Miss Merletta Griffiths - the Dismissed Worker

SUBMISSIONS AND SITTINGS:

Briefs were submitted by both parties who made oral submissions during two sittings held on June 18, 2015.

THE COMPANY'S CASE

Super Save Pharmacy is located in Santa Cruz in the parish of Saint Elizabeth. Both Dorret Bellanfante and Merletta Griffiths were employed November 2004 and April 2005 respectively. Their work conduct became a matter of concern to their manager Miss Rosemarie Fagan, Proprietor. Having had a series of discussions with them about their performance no improvement was observed.

Regrettably, a decision to remedy a bad situation caused Miss Fagan to terminate their employment by letter dated 14th March 2014. See termination letters below:

"March 14, 2014

Dear Ms. Dorret Bellanfante,

This letter serves to inform you of the termination of your employment period here at Super Save Pharmacy.

Your mannerism, tardiness and overall attitude in your approach to the job have become unacceptable.

Of late, there have too many unresolved issues in terms of work ethics here, the matter of inconsistencies in stock balances as shown by the computer and actual balances that are seen or not seen on the shelves, the matter of the computer constantly showing funds in excess of what is on the actual run off at the end of the day and even the matter of the machine being short at the end of the work day.

These issues have been ignored for too long a period and its full time that steps are taken to have them resolved. Hence a decision was taken to terminate your employment here.

Kindly, find enclosed your two weeks' notice pay.

All the best in your endeavours. Thank you for your years of service here.

Yours truly,

*Rosemarie Fagon
Proprietor"*

THE AGGRIEVED WORKER'S CASE

Contention

The dismissed worker contends:

- a) that their services were terminated without being charge for any offence.
- b) that they were not offered an opportunity to defend themselves in a disciplinary hearing
- c) that they were not offered the right of representation.
- d) that their termination is a breach of Labour Relations Code.
- e) that Miss Rosemarie Fagan was the accuser and the decision maker.
- f) that the right of an appeal was not offered to the workers.
- g) that the Tribunal finds that Misses Dorret Bellanfante and Merletta Griffiths were terminated unfairly and unjustifiably and that they be reinstated in their job without any loss of pay.

TRIBUNAL RESPONSE

There are two (2) components to this dispute.

- a) Were Misses Dorret Bellanfante and Merletta Griffiths culpable of the charges made against them by Miss Fagan, and;
- b) the matter of disciplinary procedures

Miss Fagan gave evidence and submitted written documents containing the instances when she had to speak to Misses Bellanfante and Griffiths about their unacceptable conduct. However, the Tribunal heard no evidence from Mr. Duncan that would refute Miss Fagan's testimony. Therefore, the Tribunal accept the evidence of Miss Rosemarie Fagan.

Mr. Harold Brady on behalf of his client accepted that Miss Fagan did not follow procedures as reflected in the Labour Relations Code.

In light of this, the Tribunal must point out that under section 3 (4) of the Labour Relations and Industrial Disputes Act (1975), it is obliged by statute to take this point in to consideration which states:

“A failure on the part of any person to observe any provision of a labour relations code which is for the time being in operation shall not of itself render him liable to any proceedings; but in any proceedings before the Tribunal or a Board any provision of such code which appears to the Tribunal or a Board to be relevant to any question arising in the proceedings shall be taken into account by the Tribunal or a Board in determining that question.”

Based on the above, the Tribunal finds that Misses Dorret Bellanfante and Merletta Griffiths were not given a fair and proper hearing which would be consistent with fair labour practises and in accordance with Section 22, under “Disciplinary Procedure” of the Labour Relations Code, and as such finds that the dismissal was unjustifiable.

The Tribunal hereby awards accordingly.

AWARD

In accordance with Section 12(5)(c) (i) of the Labour Relations and Industrial Disputes Act (LRIDA) the Tribunal hereby awards:

- i. eight (8) weeks pay to Miss Dorret Bellanfante
- ii. eight (8) weeks pay to Miss Merletta Griffiths

DATED THIS 26th DAY OF JUNE, 2015



Donovan Hunter

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Donovan Hunter
Chairman

Trevor Graham

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Trevor Graham
Member

Clinton Lewis

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Clinton Lewis
Member

Witness:

Royette Creary

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Royette Creary
Secretary to the Division