

INDUSTRIAL DISPUTES TRIBUNAL

Dispute No: IDT 40/2018

SETTLEMENT OF DISPUTE

BETWEEN

AJAS AVIATION SERVICES

AND

MS. CHRISTINE BENNETT

AWARD

I.D.T. DIVISION

MR. ERROL MILLER, JP.	-	CHAIRMAN
MR. ERROL BECKFORD	-	MEMBER
MRS. CHELSIE SHELLIE-VERNON	-	MEMBER

APRIL 4, 2024

INDUSTRIAL DISPUTES TRIBUNAL

AWARD

IN RESPECT OF

AN INDUSTRIAL DISPUTE

BETWEEN

AJAS AVIATION SERVICES
(THE COMPANY)

AND

MS. CHRISTINE BENNETT
(THE AGGRIEVED)

REFERENCE:

By letter dated November 27, 2018, the Honourable Minister of Labour and Social Security pursuant to 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:

"To determine and settle the dispute between the AJAS Aviation Services on the one hand and Ms. Christine Bennett on the other hand over the termination of her 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. Errol Miller, JP	-	Chairman
Mr. Errol Beckford	-	Member, Section 8(2) (c) (ii)
Mrs. Chelsie Shellie-Vernon	-	Member, Section 8(2) (c) (iii)

REPRESENTATIVES OF THE PARTIES:

The **Company** was represented by:

Ms. Angela Robertson	-	Attorney-at-Law
Mr. Christopher Cowan	-	Attorney-at-Law

In attendance:

Mr. Christopher Bond	-	Director (AJAS)
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The **Aggrieved worker** was represented by:

Mrs. Gloria Blenman De Clou-	Attorney-at-Law
Miss Ama De Clou	- Attorney-at-Law

In attendance:

Ms. Christine Bennett	-	Aggrieved worker
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BACKGROUND

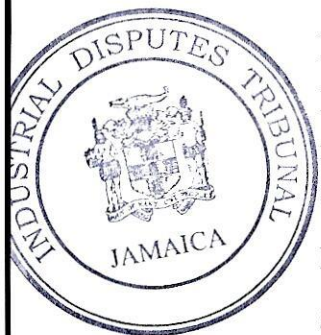
All Jamaica Aviation Services was established in 1941 to serve as airport handling agents for airlines at both of Jamaica's international airports - Norman Manley International Airport in Kingston and Sangster International Airport in Montego Bay. The name of the Company was subsequently changed to AJAS Aviation Services. The Company offers services in ground handling, cargo, executive aviation, aviation security and ground transportation. Its offices are located at the Norman Manley International Airport (NMIA) in Kingston and Sangster International Airport (SIA) in Montego Bay.

Miss Christine Bennett was temporarily employed to AJAS Aviation Services on May 9, 2013, as a Customer Service Agent and continued to be engaged under a number of fixed term contracts

until September 30, 2017, the last date of her employment with the Company. A dispute arose over her separation and the matter was referred to the Ministry of Labour and Social Security for conciliatory assistance. However, due to failure in reaching a resolution, the dispute was referred to the Industrial Disputes Tribunal for determination and settlement.

COMPANY'S CASE

1. The Company submitted that it had contractual obligations with JetBlue Airlines (JetBlue) to carry out customer and baggage services. It said that Ms. Christine Bennett was employed to AJAS Aviation Services (AJAS) on May 9, 2013, as a temporary Customer Service Agent and stationed at the Norman Manley International Airport (NMIA). Among the provisions in her contract of employment were that she would be trained and assigned to the JetBlue operations. It also outlined other details of her employment and benefits. The Company renewed her contract for short periods on a number of occasions between September 2013 and October 2015. The renewed contracts essentially mirrored each other. However, there were differences in the last contract in October 2015, which expanded the duration and other conditions of employment.
2. At the 5th Sitting of the Tribunal, Miss Shauna-Gaye Stephens, Chief Human Resources Officer, commenced giving evidence for the Company. The cross examination of Ms. Stephens began at the 9th Sitting of the Tribunal but at the 10th Sitting on June 15, 2022, the Company advised the Tribunal that Ms. Stephens was no longer in its employ and that she indicated her unavailability to complete her evidence. The Attorney for the Aggrieved was dissatisfied with the position reported by the Company and indicated that it would be prejudicial to the case of the Aggrieved. As a consequence, and in keeping with the provisions of Section 17(1) of the LRIDA, the Tribunal summoned Ms. Stephens by registered mail on November 8, 2022, to appear to continue her evidence. The summons was sent to the last known address supplied by the Company but there was no reply from her. The parties, therefore, agreed to dispense with the evidence that Ms. Stephens had given and the Company substituted Mr. Christopher Bond as its witness.
3. Mr. Bond testified that he is a Human Resources Consultant and that he provided multiple human resources services to AJAS. He said that he has also been a Director of the Company



since 2013. He explained that AJAS provides passenger and baggage services for various airlines for both international airports under licence from the Airports Authority of Jamaica (AAJ).

4. Mr. Bond gave an overview of the relationship between JetBlue Airlines and AJAS Ltd. and explained how the staff of AJAS operates within that environment. He said that AJAS has to apply to the AAJ for a Restricted Area Pass (RAP) for each employee which allows them access to his/her work location. These passes are issued after the employee undergoes training on security protocols at the airport. The RAP when issued, remain the property of the AAJ and may be withdrawn at any time by the Authority. The RAP is supported by an identification card supplied by AJAS.
5. He said that the Agents are trained and restricted to use JetBlue's computer systems only. Among the training received by AJAS employees, is the dispensing of Goodwill Vouchers to passengers. These Vouchers, also referred to as Travel Banks, are compensation of certain value provided by JetBlue to passengers who encounter inconvenience connected with their baggage or flight for which the airline accepts liability. These vouchers must be clearly linked to an authorized passenger on a flight and must be accessed by the Agent through a personal Sine Code and password. This is to ensure accountability of transactions by the Agents and therefore the sharing of password was a violation of JetBlue's policy.
6. Mr. Bond said that JetBlue, by email dated June 27, 2017, advised AJAS that there were certain fraudulent activities that had been taking place involving eleven (11) Agents who were employed by AJAS and stationed at NMIA. The fraudulent activities concerned eighty (80) Goodwill Vouchers, amounting to approx. US\$69,000.00. He said that JetBlue indicated that these were discovered through its audit controls. The vouchers all had the Agents' Sine Codes, the names of purported passengers and the incident giving rise to the voucher. He said that JetBlue also informed AJAS that it had already advised the Jamaican law authorities of the fraudulent transactions even prior to informing AJAS by its email in June 2017.
7. Mr. Bond further testified that JetBlue requested that all eleven Agents be removed from active duty. However, AJAS informed the Airline that it could not be done as suggested, since it would not be compliant with the local labour laws. He said he advised JetBlue of



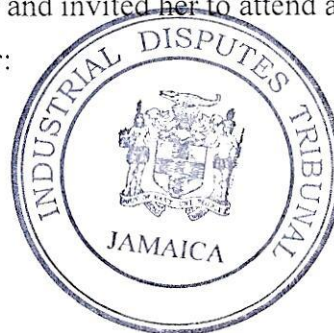
the proper procedure which included the preferring of charges against the accused persons followed by Disciplinary Hearings and that this had to be with the involvement of JetBlue.

8. By letter dated July 24, 2017, AJAS advised Ms. Bennett that management had received a report from Jet Blue Corporate Security indicating that the Airline had launched an investigation into irregular transactions at NMIA and **that it is alleged that you are involved in this duplicitous act**. She was further advised that she may have breached the Company's Disciplinary Code and that **"the matter is being investigated and you will be held out of service with pay from Friday, July 21, 2017 until the date of the hearing"**.
9. JetBlue's International Security Manager, Mr. Anthony Greco Jr., in a detailed letter dated August 22, 2017 addressed to AJAS, reported the findings of the Airline's investigations and named Ms. Bennett as one of eleven AJAS employees involved in the scheme that issued fraudulent Goodwill vouchers. Mr. Bond said that Ms. Bennett's Sine Code was associated with three vouchers valued at US\$1000 each. He stated that the system revealed the details of each fraudulent transaction and the identity of the persons involved in the scheme. The following is an extract from the letter from JetBlue:-

...Beginning on May 5, 2016, Kirkpatrick Townsend, an employee of AJAS began creating fraudulent JetBlue Good will Vouchers within the Sabre Reservations System. Over the next year, through June 12, 2017, when the scheme was discovered, a total of 11 Kingston (KIN)-based AJAS employees created 80 fraudulent vouchers totaling \$68,956.80.

The vouchers were created by the AJAS employees and were never associated with an actual JetBlue customer or JetBlue related event deserving a credit. The vouchers and their values were made by the following AJAS employees: (employees named and amounts associated with each employee stated)

10. Further to its letter of July 21, 2017, AJAS informed Ms. Bennett by letter dated August 30, 2017 of the allegations against her and invited her to attend a hearing on September 14, 2017. The text of the letter is as under:



Dear Miss Bennett,

It has been brought to the attention of the Management that you may have breached the Company's Disciplinary code.

Specifically it has been alleged that investigations carried out by the International Security Manager for JetBlue Airline revealed that you were involved in creating JetBlue Goodwill vouchers not associated with an actual JetBlue Customer or JetBlue related event deserving of a credit.

Based on the foregoing, you have breached the Company's disciplinary code and this has resulted in the following charge(s):

1. Failure to follow proper procedure relating to the use of the airline system to create Goodwill vouchers
2. Fraudulent creation of Goodwill vouchers for improper use &/or personal gain
3. Conduct causing damage to the Company's image and bringing the Company into disrepute.

You are hereby invited to attend a hearing to answer to the above charge, on Thursday, September 14, 2017 at 11:00 a.m. in AJAS' training room, NMIA.

Please note that you are entitled to have a representative of your choice and any other witness who can provide evidence regarding the charge; they may also ask questions on your behalf. You should provide the names of any witness to the Human Resource Manager before the date of the hearing. The documents relative to the allegation are attached for your perusal before the hearing.



If you fail to attend the meeting as scheduled, without prior notice, the Company has the right to make a decision according to the information currently available to it and take such actions as it considers appropriate.

Yours truly,

Christine A. Davidson

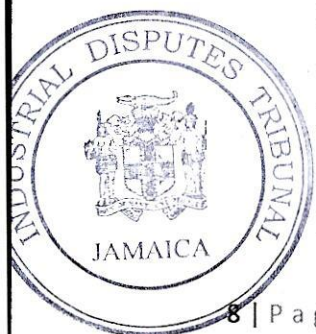
Human Resources Manager

11. In his evidence, Mr. Bond said that all the Agents including Ms. Bennett were withdrawn from service and were involved in Disciplinary Hearings. Seven hearings were held where it was established that persons were found guilty and some were separated from the Company while at least two employees voluntarily resigned and did not subject themselves to a disciplinary hearing. He stated that the date for the Hearing to which Ms. Bennett was invited on September 14, 2017, did not prove convenient. He further testified that despite several other attempts, the parties were unable to arrange a scheduled Hearing before September 30, 2017. This resulted from conflicting schedules of the parties and the intervention of Hurricane Irma which prevented Mr. Greco from the JetBlue office in the USA, from attending a scheduled Hearing.
12. By letter dated October 6, 2017, AJAS advised Ms. Bennett that her **existing contract of employment with the Company officially ended on September 30, 2017 and has not been renewed**. Mr. Bond also stated that by virtue of the contract of employment dated October 9, 2015, there was no guarantee of employment beyond the expiry date of September 30, 2017. He further testified that Ms. Bennett's services were not terminated but that her contract of employment ended by the effluxion of time.
13. The Company contends that:
 - a. Ms. Bennett could not have been unjustifiably dismissed as her contract of employment had ended by the effluxion of time without any obligation on the part of AJAS to renew same; and
 - b. AJAS made no expressed promise or undertaking that Ms. Bennett's employment would continue automatically.



CASE FOR THE AGGRIEVED

14. Ms. Bennett, in her evidence, confirmed that she was engaged by AJAS on May 16, 2013 and assigned to the JetBlue Airlines operations as a Customer Service/Reservation Agent. She said that she was elevated to Ground Security Coordinator in 2015. She testified that she worked for about four years with the Company under about 4 to 5 contracts of employment since May 2013. Her last contract was for the period October 1, 2015 to September 30, 2017. She said that her duties required her to work on different shifts and that she was a hard worker and an exemplary employee.
15. She described the setting of the Customer Service/Reservation Agents' work stations, in that the counters were close to each other and that each station contains two computers to a desk. She reaffirmed that each employee has a specific sign in code and a password to access the JetBlue system and that it was a violation to share the code with anyone.
16. Ms. Bennett said that on the successful passing of an examination, the Agent receives a Restricted Area Pass (RAP) which provides access to areas designated on the AJAS Identification Card. She also explained that passengers who are affected by flight or baggage delays are compensated through the issuing of Goodwill Vouchers. These are normally issued by supervisors or, on their instructions, by the Agents.
17. Ms. Bennett said that at the end of the shift on July 19, 2017, persons were advised about a meeting scheduled for the following day (July 20, 2017). The meeting was for JetBlue Agents and it took place at the Learning Development Centre at NMIA. She said that she arrived late that morning and that the meeting concluded within five minutes of her arrival. She said that there were two senior AJAS employees present but no Senior JetBlue employees from NMIA was in attendance.
18. She said that at the end of the meeting, she was advised to sign an attendance register and that after signing the register, Mr. Norman Tomlinson, one of the senior AJAS employees present, enquired about her identity. She said that she responded and that upon instructions, she was accompanied by persons unknown to her to the JetBlue office locker to retrieve her handbag and cell phone. On her return, she was asked to go into a room where three of her co-workers and three other persons unknown to her were present. She said that her handbag was searched by one of the three unknown persons, whom she later learnt were



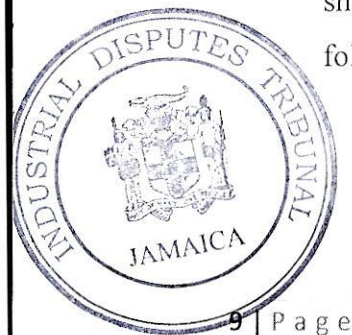
Police Officers. Upon exiting the room, her AJAS identification card and the Restricted Area Pass (RAP) were taken from her by Ms. Kimberly Grodger, the other senior AJAS employee. The surrendering of these documents meant that she could not access her work area without them.

19. Ms. Bennett testified that she, together with all the other persons present in the room, were subsequently transported by a minibus to the Police Fraud Squad Office on Duke Street. Upon arriving there, she said that she was shown a list of eleven employees of AJAS who are assigned to JetBlue and advised that they were involved in a Travel Banks racket. She said that she had no prior knowledge of those investigations. She requested the presence of her attorney following which she was questioned and charged with three counts of fraud involving the Airlines Travel Banks. She was eventually released on station bail of \$100,000.00 at about 8:00 p.m. and was scheduled to attend Court on August 24, 2017. She subsequently learnt that other persons on the list were taken in for questioning. She said that following this incident, nobody from AJAS made contact with her and that the first communication from AJAS to her was by letter dated August 30, 2017, that was received by registered post. She said that she was subsequently advised by the Court that the criminal charges against her were dismissed.

20. Ms. Bennett gave evidence that the disciplinary hearing scheduled for September 14, 2017, did not take place. By letter dated September 11, 2017, she was advised that the hearing was re-scheduled to September 22, 2017, as the representative from JetBlue in Florida was unable to attend. This, she was told, was due to the closure of the airports consequent on the passage of Hurricane Irma. The hearing was further rescheduled for September 29, 2017, but on that occasion her Attorney was unable to attend and it was therefore rescheduled for October 13, 2017.

21. Ms. Bennett said that when she reported for the scheduled hearing on October 13, 2017, she was handed a letter by an ex-coworker dated October 6, 2017, an extract of which is as follows:

This is to advise you that your existing contract of employment with the Company officially ended on September 30, 2017 and has not been renewed. You are entitled to the following payments:



1. Salary earned to September 30, 2017

2. Nine (9) days in lieu of vacation leave

22. Ms. Bennett stated that she briefed her Attorney about what had taken place and by letter dated November 2, 2017, her Attorney wrote to AJAS claiming that she was unjustifiably terminated. The letter stated that the termination was unfair for several reasons including:

- i. She was not charged with any offence or breach of the Human Resource Manual or Grievance Policy
- ii. She was not invited to a disciplinary hearing and as such was denied the opportunity of making representation on her own behalf.
- iii. She was denied the benefit of a representative at a hearing.

23. When asked what she expected from the Tribunal, Ms. Bennett said that she is seeking justice.

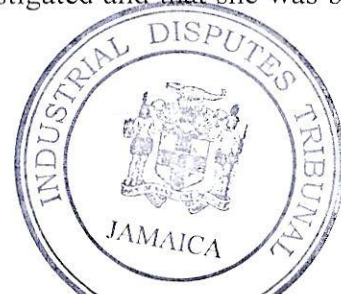
ANALYSIS BY THE TRIBUNAL

24. In light of the evidence presented by both parties, the Tribunal must determine whether:

- a. Ms. Bennett had breached her contract of employment.
- b. The Company terminated her contract of employment, and if so, was the termination justified.

25. The evidence before the Tribunal is that the policy of JetBlue Airlines provides for the issuance of Goodwill Vouchers or Travel Bank by its Agents to passengers who, due to the fault of the Airline, have flight delays or challenges with their baggage. There were clear guidelines to assist the process. Agents were authorised to issue the appropriate amount on Goodwill Vouchers to affected passengers. This would be done through the use of their Sine Code to access the voucher through the Airline's computer system.

26. In June 2017, JetBlue had reason to investigate certain fraudulent activities at NMIA involving the issuance of Goodwill Vouchers. The evidence indicates that eleven persons, including Ms. Bennett, were accused of being involved in the scam and this was based on the use of their Sine Codes to access the Vouchers. AJAS advised Ms. Bennett, by letter dated July 24, 2017, that the matter was being investigated and that she was being placed on administrative leave, pending the investigations.



27. By letter dated August 30, 2017, she was further advised of the conclusion of the investigations and that disciplinary charges were being preferred against her. AJAS advised her by the said letter that **"You are hereby invited to attend a hearing to answer the above charge, on Thursday, September 14, 2017 at 11:00 a.m. in AJAS' training room, NMIA"**. However, efforts to have the disciplinary hearing into the administrative charges never took place for various reasons. The evidence is that the hearing was cancelled and rescheduled from September 14, 2017 to September 22, 2017 and due to hurricane challenges preventing the JetBlue representative from being present, it was further cancelled. Another date was scheduled for September 29, 2017, for the hearing to take place, but again this was rescheduled to October 13, 2017, as Ms. Bennett's Attorney was not available. She was later advised by AJAS that her contract of employment expired and would not be renewed.
28. The disciplinary hearing failed to take place and it was, therefore, never established whether Ms. Bennett was innocent or guilty of the charges which would determine if she had breached her contract of employment. Her situation contrasts with that of her colleagues, who either resigned and avoided the disciplinary hearing or attended the scheduled hearings with the attendant consequences.
29. Ms. Bennett, along with some of her co-workers, were arrested by the Police and charged with fraud, consequent on JetBlue's investigations of the Goodwill Vouchers scam. She testified that she was scheduled to attend Court on August 24, 2017, but that she was subsequently advised that the criminal charges against her were dismissed.
30. We find that Ms. Bennett had the unfortunate experience that she was never afforded the opportunity to exonerate herself from the administrative charges prior to the end of her employment with AJAS. Her last contract of employment was for the period October 1, 2015 to September 30, 2017. No evidence was presented that, following the administrative leave, she was advised by AJAS to return to work. There is also no evidence that she breached her contract of employment.



31. By letter dated August 8, 2017, Ms. Bennett's Attorney advised the Company that:

Our client has presented a copy of a current Contract of Employment for a duration of Two (2) years, which concludes on 30th September 2017. Therefore for all intent and purposes she remains employed to the company until such time as the expiration of the contract period. (Tribunal's emphasis)

32. Following the aborted disciplinary hearings due to conflicts with the dates, AJAS advised Ms. Bennett, by letter dated October 6, 2017, that her contract had expired on September 30, 2017 and was not renewed. However, Ms. Bennett stated that she briefed her Attorney on the matter and by letter dated November 2, 2017, her Attorney wrote to AJAS claiming that she was unjustifiably terminated. AJAS maintained that the contract of employment had come to its natural end and was not renewed and therefore, it disputed the claim that the Company had dismissed Ms. Bennett.

33. We find that there were a series of events that did not allow Ms. Bennett to exonerate herself from both the administrative as well as the criminal charges prior to the expiration of her contract of employment. The letter from her Attorney dated August 8, 2017, correctly stated that **she remains employed to the company until such time as the expiration of the contract period.** The contract, however, came to its natural end on September 30, 2017 and without it being renewed, she would no longer be employed to the Company.

34. In all the circumstances, the Tribunal finds that Ms. Bennett could not be properly accused of breaching her contract of employment. We also find that AJAS did not terminate her services but that her contract came to a natural end.



AWARD

The Tribunal awards that Ms. Christine Bennett's contract of employment was not terminated but that it expired with the effluxion of time.

DATED THIS 4th DAY OF APRIL 2024.



Witness:

Nicola Smith Marriott (Mrs.)
Secretary to the Division

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Mr. Errol Miller, JP
Chairman
.....
Mr. Errol Beckford
Member
.....
Mrs. Chelsie Shellie-Vernon
Member