

INDUSTRIAL DISPUTES TRIBUNAL

Dispute No.: 43/2022

SETTLEMENT OF DISPUTE

BETWEEN

BRANCH DEVELOPMENTS LIMITED
(T/A IBEROSTAR ROSE HALL BEACH AND
RESORTS)

AND

MR. LINVAL LAWRENCE

AND THE

AWARD



I.D.T. DIVISION

MS. SADEERA SHAW	-	CHAIRMAN
MR. RODCLIFFE ROBERTSON, JP.	-	MEMBER
MR. KEITH FAGAN	-	MEMBER

OCTOBER 9, 2025



Shaw

IDT 43/2022

INDUSTRIAL DISPUTES TRIBUNAL

AWARD

IN RESPECT OF AN INDUSTRIAL DISPUTE

BETWEEN

**BRANCH DEVELOPMENTS (T/A IBEROSTAR ROSE HALL BEACH
AND RESORTS)
(THE COMPANY)**

AND

**MR. LINVAL LAWRENCE
(THE AGGRIEVED WORKER)**

REFERENCE:

By letter dated November 10, 2022, 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 describe therein:-

The Terms of Reference were as follows:

"To determine and settle the dispute between Branch Developments (t/a Iberostar Rose Hall Beach and Resorts) on the one hand, and Mr. Linval Lawrence on the other hand, over the termination of his employment".



Linval Lawrence

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:

Ms. Sadeera Shaw	-	Chairman
Mr. Rodcliffe Robertson, JP.	-	Member, Section 8(2)(c)(ii)
Mr. Keith Fagan	-	Member, Section 8(2)(c)(iii)

REPRESENTATIVES OF THE PARTIES:

The **Company** was represented by:

Mr. Gavin Goffe	-	Attorney-at-Law
Ms. Nicole Taylor	-	Attorney-at-Law

The **Aggrieved Worker** was represented by:

Mr. Howard Duncan	-	Industrial Relations Consultant
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In attendance:

Mr. Linval Lawrence	-	Aggrieved Worker
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SUBMISSIONS AND SITTINGS

Briefs were submitted by the Aggrieved's Representative and both parties made written and oral submissions during seven (7) sittings between the period of May 2, 2023, and August 20, 2025.





BACKGROUND TO THE DISPUTE:

1. Branch Developments Limited (t/a Iberostar Rose Beach and Resort), *hereinafter referred to as the Company*, is a limited liability company which operates as a hotel.
2. Mr. Linval Lawrence, *hereinafter referred to as the "Aggrieved Worker"*, was employed to the Company on November 6, 2009, as a Linen Runner in the Housekeeping Department and later transferred to a new department in the position, Bellman. By letter dated April 30, 2014, the Aggrieved Worker was informed that his employment was terminated with immediate effect.
3. The Aggrieved Worker engaged the services of Mr. Howard Duncan, Industrial Relations Consultant, who contested his termination and sought the intervention of the Ministry of Labour and Social Security. No resolution was reached and the dispute was referred to the Industrial Disputes Tribunal for determination and settlement.
4. At the 2nd sitting at the Tribunal, Mr. Goffe, the Company's Attorney, was invited to make his opening submission and to call his first witness thereafter. Mr. Goffe, in response, stated "*...there is not a dispute between these parties and as such we should not be here. We have no witnesses to call, Madam Chair, but we do reserve the right and we will be seeking cross-examination of any witnesses called by Mr. Duncan, as well as we will be making closing submission to the Panel.*" The Tribunal reminded Mr. Goffe of the principle derived from the judgement, *Regina v Industrial Disputes Tribunal Ex parte Palace Amusement Company (1921) Limited* in which he maintained his position. With that said, the Tribunal proceeded to invite the Aggrieved Worker to open its case.

THE AGGRIEVED WORKER'S CASE

5. In presenting its case, Mr. Howard Duncan called the Aggrieved Worker, Mr. Linval Lawrence, as his only witness. Mr. Lawrence testified that he was employed to the Company in October 2009 in the capacity of a Linen Runner within the Housekeeping Department. He gave evidence that he was later transferred to another department in the position of Bellman which he held up until his termination.

6. He proceeded to explain what transpired leading up to his termination where he stated that in the evening of April 23, 2014 while he was working, he was told that he was to report to the Front Desk Manager's office. It is his evidence that when he arrived, the Hotel Manager was also present. They asked him questions about him being on a window searching for something and that someone saw him. He denied the allegations and stated that he was not told what he was allegedly searching for. He then testified that he received a letter on the same day which invited him to attend a disciplinary hearing, two (2) days later at the Human Resources Department.
7. He indicated that he was not placed on leave pending the disciplinary hearing and confirmed his attendance at the said hearing on April 25, 2014. He noted that he didn't have a representative present at the hearing and the other persons present were Anthony Ferguson- Human Resource Director and Chairperson, Jonay Geurra- Grand Front Office Manager, Oneil Douse- Resort Security Manager and Nardia Bennett- Grand Security Supervisor. He gave evidence that he requested more time to seek representation as the notice of the hearing was short. He then stated that the chairman of the hearing, Mr. Ferguson, responded that the hearing had to proceed with or without him (the Aggrieved Worker) being represented.
8. He explained that the hearing lasted for half an hour and that no witnesses were called nor was he provided with any evidence. It is his evidence that during the disciplinary hearing, Mr. Douse questioned him about being on the 4th floor ledge and that that he took something from the said ledge. It is also his evidence that the Company's representatives indicated that they had sent someone on the ledge and they found contraband which wasn't shown. He testified that they (the Company's representatives) didn't directly say it was him on the ledge but he was the Bellman on duty that day.
9. He denied the allegations against him and noted that he was of the view that he was not treated fairly during the hearing. He gave evidence that after the hearing, he returned to work and continued working until he received a termination letter dated April 30, 2014 from the Human Resources Department. He noted that he was asked to sign for the said letter which he didn't.



10. He stated that after receipt of the termination letter, he returned his uniform and the other items belonging to the Company that were in his possession. He then sought representation and his representative gave him a letter to deliver to the Company which he did. It is his evidence that the said letter, dated May 8, 2014, was a request for an appeal of the Company's decision to terminate him. He testified that an appeal hearing was not held and that his termination was unfair as he was not guilty of the offence.

11. He expressed his wish to be reinstated at the Company although he is currently employed. He then explained that as a Bellman at the Company he made "good tips". When he did the comparison, he would earn more overall as a Bellman than his current employment.

CROSS-EXAMINATION OF THE AGGRIEVED WORKER

12. The Aggrieved Worker later testified that he is currently employed at Rural Agricultural Development Authority, (RADA) as a Driver/Messenger since June 2017. He gave evidence that he earns \$100,000 monthly at RADA but was unable to recall his salary when he worked at the Company. He then stated that he signed an employment contract when he began working with the Company in 2009 and that he was a permanent staff after three (3) months, as he didn't go on any breaks. It is his evidence that when he was transferred to the bell desk, he didn't sign another employment contract. He went on to explain that his employer when he signed the said employment contract was Iberostar and that he didn't know anything about Branch Development Limited. He also denied signing a contract with Employ Limited and reiterated that he was employed to Iberostar. He testified that he learnt of Branch Development Limited after he separated with the Company and that he didn't recall what was printed under employer's name on his payslip.

13. He stated that there are three (3) hotels in the Iberostar chain at Rose Hall namely, the Beaches, the Suites and the Grande. He noted that he worked at the Grande and he only knew that Iberostar owned all of them. He stated that he is aware that companies in Jamaica have a limited at the end of the name but wasn't sure whether or not Iberostar was a company.



14. He confirmed that he was invited to a disciplinary hearing which he attended and that he was given the opportunity to take a representative of his choice. It is his evidence that he was forced to attend without a representative and that he didn't recall signing anything to the effect that he waived representation. He then testified that if he did, he was forced to. He gave evidence that he recalled a discussion about footprint but didn't recall saying that the shoeprint looked familiar to his boot print. Further, he recalled Ms. Nadia Bennett being present in the hearing but did not recall her being the person who identified him as the person on the window ledge.

THE TRIBUNAL'S RESPONSE AND FINDINGS

15. The Tribunal, after careful examination of the evidence adduced by both parties to the dispute, must determine whether the Company was justified in the manner in which it separated with the Aggrieved Worker.

16. It was argued by the Company that the Aggrieved Worker didn't provide sufficient evidence to prove a connection between the Company and Iberostar. The Company supported their argument with the Aggrieved Worker's evidence when he stated that he wasn't aware of the name Branch Development Limited until after his termination as he only knew and worked for Iberostar. In response, the Tribunal states that an employee not being cognizant of the legal name of an entity for which he/she works does not eradicate the fact that they were employed at the said entity.

17. The Tribunal notes the Aggrieved Worker's employment agreement (*exhibit 5*) where the employer was stated as Employ Limited. The Tribunal finds that based on the evidence provided, the Aggrieved Worker's employment agreement was on the Iberostar letterhead and Employ Limited described itself in the said agreement as a hiring company in which the client was Iberostar. In addition, the term of the agreement was three (3) months in which the Aggrieved Worker continued to work for Iberostar after the termination of said agreement in a new position. Further, the Tribunal finds that the termination letter (*exhibit 2*), also written on the Iberostar letterhead, issued to the Aggrieved Worker confirms the connection between the Company and Iberostar, where it stated:



"In addition, in exchange for our keeping confidential the terms of your separation from the Company please sign as confirmation that you release and discharge Branch Developments Ltd and all companies in the Iberostar Group..."

18. With regards to the termination, the Company decided not to put forward a case which placed the Tribunal in a position where it could not fully ascertain whether the Company had cogent reasons to terminate the Aggrieved Worker. Based on the evidence provided by the Aggrieved Worker, specifically the charge letter dated April 23, 2014 which was signed by Mr. Anthony Ferguson (*exhibit 1*), it appears that the Aggrieved Worker was charged with *"Possession or usage of illegal drugs while on Iberostar's compound"*. The evidence shows that the Aggrieved Worker was invited to attend a disciplinary hearing on April 25, 2014 concerning the above-mentioned charge.

19. The Tribunal accepts that a disciplinary hearing, chaired by Mr. Anthony Ferguson, was held on the above-mentioned date in which the Aggrieved Worker signed a waiver of representation, (*exhibit 6*). The Tribunal does not accept the Aggrieved Worker's evidence that he was forced to sign the said waiver. The Tribunal further accepts the Aggrieved Worker's evidence that he was not supplied with any of the evidence used against him prior to, nor during the said hearing. The Tribunal notes that by way of letter dated April 30, 2014 signed by Mr. Anthony Ferguson, the Aggrieved Worker's employment was terminated.

20. In examining the process undertaken by the Company in terminating the Aggrieved Worker, the Tribunal finds it noteworthy to highlight paragraph 22 of the Labour Relations Code which guides the Tribunal as to what is required in the event of a termination for disciplinary reasons. It states:

Disciplinary Procedure

- 1) *Disciplinary Procedures should be agreed between management and worker representatives and should ensure that fair and effective arrangements exist for dealing with disciplinary matters. The procedure should be in writing and should:*
 - a) *specify who has the authority to take various forms of disciplinary action, and ensure that supervisors do not have the power to dismiss without reference to more senior management;*



- b) *indicate that the matter giving rise to the disciplinary action be clearly specified and communicated in writing to the relevant parties;*
- c) *give the worker the opportunity to state his case and the right to be accompanied by his representatives;*
- d) *provide for a right of appeal, wherever practicable, to a level of management not previously involved;*
- e) *be simple and rapid in operation.*

The Tribunal finds that the Company didn't provide the Aggrieved Worker with a right of appeal. Even though the Aggrieved Worker, through its representative, still sought an appeal, it was not accommodated by the Company.

21. With regards to rules of Natural Justice, the often quoted rules recognized by the Court are set out below:



- (a) Audi Alteram Partem- The Accused has a right to be heard

This requires that the accused should be allowed a disciplinary hearing for him to put forward a defence against the charges laid against him. In doing so, the Aggrieved Worker should be allowed the right to representation of his choice to assist him in his defence. In the instant case, the Tribunal finds that the Company adhered to this rule as it provided the Aggrieved Worker an opportunity to be heard via a disciplinary hearing (held on April 25, 2014) as well as provided him (the Aggrieved Worker) with the right to be represented by someone of his choice as stated in charge letter dated April 23, 2014.

- (b) A man should not be a judge in his own cause

This requires that the procedure should show impartiality and be presided over and/or managed by persons who will be fair and objective, and certainly not a part of the institution which is making the accusation or bringing the charges against the accused. In the instant case, the Tribunal finds that Mr. Anthony Ferguson played a number of roles leading up to the Aggrieved Worker's termination where he signed the charge letter dated April 23, 2014, chaired the

disciplinary hearing on April 25, 2014 and terminated the Aggrieved Worker's employment on April 30, 2014. In doing so, Mr. Ferguson acted as judge, jury and executioner as he was involved in every aspect of the disciplinary process.

(c) A person accused or charged should know what case he has to meet

This requires that the person called upon to answer charges should be informed of such charges well in advance to allow the person time to understand the charges and to seek legal representation or assistance where he feels this is necessary or helpful in determining the charges brought against him/her.

In the instant case, the Tribunal finds that the Company erred in not providing the Aggrieved Worker with the evidence to be used against him in the disciplinary hearing so he could prepare his defence. The Tribunal also finds that providing a copy of the employee handbook does not suffice as the provision of said evidence as the employee handbook does not give the details of the charge to which the Aggrieved Worker has to answer to.

In addition, the Tribunal notes the notice period of the disciplinary hearing. The Aggrieved Worker was given two (2) days to find a representative as well as to formulate a defence. The Tribunal finds that the period was short and inadequate for the Aggrieved Worker to properly prepare for the disciplinary hearing.

22. In making its decision, the Tribunal must also consider Section 3(4) of the Labour Relations and Industrial Disputes Act, 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 proceeding; 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 Board in determining that question."



23. Taking into consideration all the evidence before it, the Tribunal finds that whether or not the Company had cogent reasons to terminate the Aggrieved Worker, the procedure adopted in terminating him breached the principles set out in the Labour Relations Code and Natural Justice.
24. With that said, the Tribunal finds that the termination of the Aggrieved Worker, Mr. Linval Lawrence, was unjustifiable. The Tribunal has considered the fact that the Aggrieved Worker mitigated his circumstances in which he gained employment in June 2017 and continues to be in their service. Whilst the Aggrieved Worker indicated his desire to be reinstated, the Tribunal took into consideration the fact that the Aggrieved Worker found employment where he continues to be employed and earns a higher salary. As such, the Tribunal does not order reinstatement.




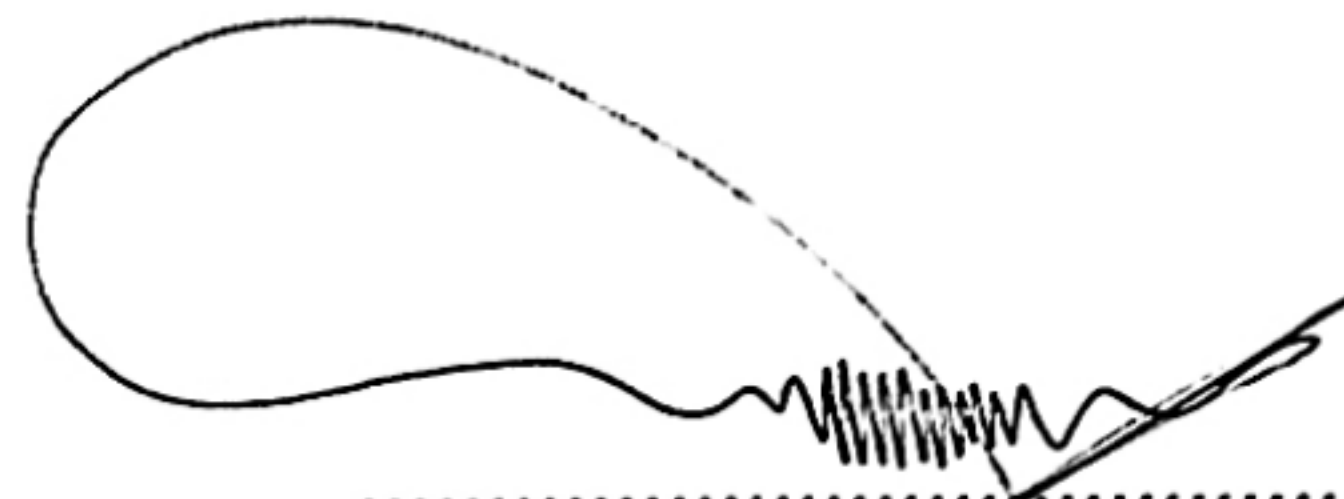
AWARD

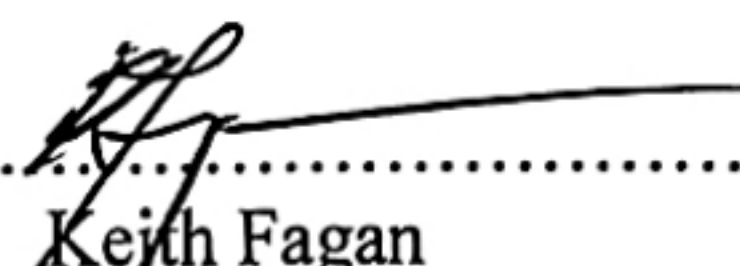
In accordance with section 12 of the Labour Relations and Industrial Disputes Act, the Tribunal awards that Mr. Linval Lawrence be compensated in the amount of Eight Hundred and Seventy Thousand Dollars (\$870,000.00) for his unjustifiable dismissal.

DATED THIS 9th DAY OF OCTOBER 2025





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Sadeera Shaw
Chairman


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Rodcliffe Robertson
Member, JP


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Keith Fagan
Member

Witness


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Jody-Ann Lindo (Ms.)
Secretary to the Division