

# INDUSTRIAL DISPUTES TRIBUNAL

Dispute No.: IDT 11/2019

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## SETTLEMENT OF DISPUTE

BETWEEN

ENFIELD PRIMARY AND JUNIOR HIGH SCHOOL

AND

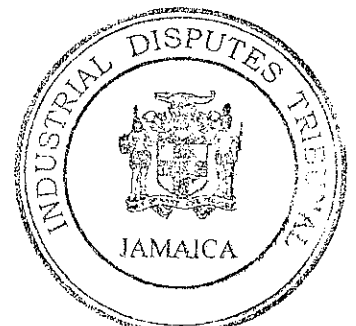
MRS. KATHLEEN SMITH FAIRCLOUGH

*AWARD*

### I.D.T. DIVISION

MR. CHARLES JONES, CD. JP-	CHAIRMAN
MR. ERROL BECKFORD	- MEMBER
MR. FREDRICK EVANS	- MEMBER

JULY 15, 2021



IDT 11/2019

**INDUSTRIAL DISPUTES TRIBUNAL**

**AWARD**

**IN RESPECT OF**

**AN INDUSTRIAL DISPUTE**

**BETWEEN**

**ENFIELD PRIMARY AND JUNIOR HIGH SCHOOL  
(THE SCHOOL)**

**AND**

**MRS. KATHLEEN SMITH FAIRCLOUGH  
(THE AGGRIEVED)**

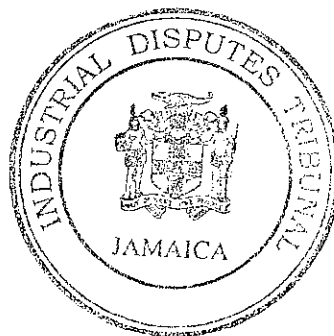
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**REFERENCE:**

By letter dated April 11, 2019, 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:-

The Terms of Reference were as follows:

*"To determine and settle the dispute between Enfield Primary and Junior High School on the one hand and Kathleen Smith Fairclough on the other hand over the termination of her employment."*



*(Handwritten signature/initials)*

**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. Charles Jones, CD, JP	-	Chairman
Mr. Errol Beckford	-	Member, Section 8(2) (c) (ii)
Mr. Fredrick Evans	-	Member, Section 8(2) (c) (iii)

**REPRESENTATIVES OF PARTIES:**

The **School** was represented by:

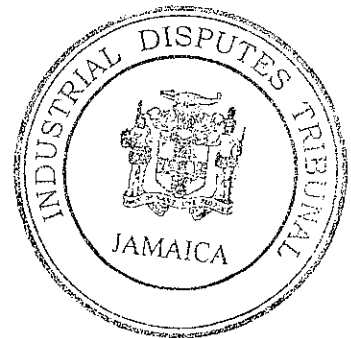
Ms Carla Thomas	-	Attorney-at-Law, Attorney General's Chambers
Mr. Carson Hamilton	-	Attorney-at-Law, Attorney General's Chambers
Ms Laurie Smikle	-	Legal Officer, Ministry of Education, Youth and Information

The **Aggrieved** was represented by:

Mr. Howard Duncan	-	Industrial Relations Consultant
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**In attendance:**

Mrs. Kathleen Smith Fairclough-	Aggrieved worker
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**SUBMISSIONS AND SITTINGS:**

Briefs were submitted by the parties and two (2) sittings of the Tribunal were held between January 27, 2020 and October 28, 2020.

At the first sitting Miss Laurie Smikle, Legal Officer in the Ministry of Education, Youth and Information, advised the Tribunal that the Ministry was not in a position to proceed in the matter at that time as not all of the background information requested from the School had been received.

She also advised that Advocates from the Attorney General's Chambers would be representing the Ministry.

At the meeting held on October 28, 2020, the Tribunal was advised that Miss Carla Thomas, the representative from the Attorney General's Chambers who would be representing the School would not be available to appear at the Tribunal in this matter until January 20, 2021. The members of the Tribunal expressed their displeasure at the delays in having this matter heard and encouraged parties to engage in talks at the local level and in the interim with a view to settling the dispute.

The Tribunal on January 19, 2021, received a letter from Miss Thomas of the Attorney General's Chambers advising that the parties were in discussions with a view to arriving at a settlement in the matter. However, they would not be able to conclude the discussions before the hearing scheduled for January 20-23, 2021 and asked for the sitting to be vacated.

Mr. Howard Duncan, Industrial Relations Consultant representing Mrs. Smith Fairclough concurred and the Tribunal acceded to the request. The date of April 8, 2021 was set for the parties to return to the Tribunal.

#### **REPORT TO THE TRIBUNAL:**

By letter dated April 7, 2021, Miss Thomas advised the Tribunal as follows:

*"Please note that the parties have reached a settlement of the dispute... we no longer require the intervention of the Tribunal and kindly ask that the proceedings be terminated."*

Mr. Duncan also, on April 7, advised the Tribunal that *"The parties have reached a settlement."*

The Tribunal on receipt of this information advised the parties that further details of the Agreement were required to facilitate the issuing an Award.

The Attorney General's Chambers by letter dated June 28, 2021, forwarded a copy of a Release and Discharge duly executed by Mrs. Smith Fairclough on the 12<sup>th</sup> April, 2021 in which she accepted from the Government of Jamaica the amount of One Million Seven Hundred and Nine Thousand Eight Hundred and Four Dollars and Sixty Eight Cents (\$1,709,804.68) as settlement

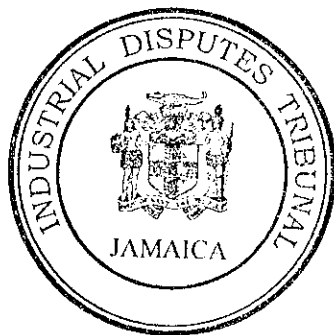


for the dispute in relation to the termination of her employment to the Enfield Primary and Junior High School.

**AWARD:**

It is the settlement outlined in the Release and Discharge document signed by Mrs. Smith Fairclough and dated 12<sup>th</sup> April 2021, a copy of which is attached that constitutes the Tribunal's Award.

**DATED THIS 15<sup>th</sup> DAY OF JULY 2021**



Witness:

Gary Lediard  
Secretary to the Division

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Mr. Charles Jones, CD, JP  
Chairman

.....  
Mr. Errol Beckford  
Member

.....  
Mr. Fredrick Evans  
Member

## RELEASE AND DISCHARGE

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I, KATHLEEN SMITH FAIRCLOUGH, DO HEREBY AGREE TO ACCEPT FROM THE GOVERNMENT OF JAMAICA THE SUM OF ONE MILLION SEVEN HUNDRED AND NINE THOUSAND EIGHT HUNDRED AND FOUR DOLLARS AND SIXTY EIGHT CENTS (\$1,709,804.68) AS SETTLEMENT FOR THE DISPUTE IN RELATION TO THE TERMINATION OF MY EMPLOYMENT AT THE ENFIELD PRIMARY SCHOOL AND FOR ANY FURTHER CLAIMS AND DEMANDS WHATSOEVER WHICH I MAY MAKE AGAINST THE GOVERNMENT OF JAMAICA, ITS SERVANTS AND/OR AGENTS IN RESPECT OF THE SAID TERMINATION OF MY EMPLOYMENT.

FURTHER AND IN CONSIDERATION OF THE SAID SUM OF ONE MILLION SEVEN HUNDRED AND NINE THOUSAND EIGHT HUNDRED AND FOUR DOLLARS AND SIXTY-EIGHT CENTS (\$1,709,804.68), I HEREBY INDEMNIFY THE GOVERNMENT OF JAMAICA, ITS SERVANTS AND/OR AGENTS IN RESPECT OF ANY CLAIMS, DEMANDS OR ACTION COMPETENT TO ME ARISING THEREFROM, WHETHER SUCH CLAIM OR DEMAND BE MADE OR SUCH ACTION BE BROUGHT BY ANY PERSON ACTING ON MY BEHALF OR ON BEHALF OF MY ESTATE OR AS A DEPENDENT.

IN CONSIDERATION OF THE SAID SUM OF ONE MILLION SEVEN HUNDRED AND NINE THOUSAND EIGHT HUNDRED AND FOUR DOLLARS AND SIXTY-EIGHT CENTS (\$1,709,804.68) I HEREBY FINALLY RELEASE AND DISCHARGE THE SAID GOVERNMENT OF JAMAICA, ITS SERVANTS AND/OR AGENTS FROM ALL CLAIMS AND DEMANDS WHATSOEVER ARISING DIRECTLY OR INDIRECTLY FROM THE TERMINATION OF MY EMPLOYMENT AT ENFIELD PRIMARY.

I HEREBY AGREE THAT I WILL NOT AT ANY TIME HEREAFTER MAKE ANY CLAIM OR TAKE OR BRING ANY ACTION OR PROCEEDINGS WHATSOEVER IN RESPECT OF THE AFOREMENTIONED SERVICES.

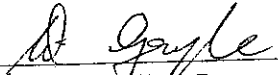
I, KATHLEEN SMITH FAIRCLOUGH, HAVE READ THIS DOCUMENT IN ITS ENTIRETY, SOUGHT LEGAL ADVICE, FULLY UNDERSTAND THE TERMS AND IMPLICATIONS OF SAME, AND HAVE SIGNED IT FREELY AND VOLUNTARILY AND I HEREBY AGREE TO BE BOUND BY THE TERMS AND CONDITIONS STATED HEREIN.

DATED THE <sup>18<sup>th</sup></sup> 18 DAY OF APRIL 2021

Signed by the said )  
KATHLEEN SMITH FAIRCLOUGH )  
at BOG WALK )

  
KATHLEEN SMITH FAIRCLOUGH

This 18<sup>th</sup> day of APRIL 2021 )  
Before me: DAVID C GAYLE )

  
Justice of the Peace  
For the parish of ST. CATHERINE