

ANTIGUA & BARBUDA

IN THE INDUSTRIAL COURT

REFERENCE NO. 6 OF 2002

BETWEEN:

MYRA MATTHEW

Employee

and

SHARON'S EMBROIDERY CREATIONS LTD.

Employee

Before:

The Honourable Cyril Maundy

The Honourable Edward T. Henry

The Honourable Genevieve Benjamin

Appearances:

Mr. Dexter Wason, Barrister-at-Law, for the Employer

Mr. Hugh Marshall Jr. and Mrs. Cherissa Roberts-Thomas Barristers-at-Law for
the Employee

2004: March 22, 23
April 23

SUMMARY JUDGEMENT

The Employee commenced working with the Employers in October 2000. The Employers carried on the business of, inter alia, manufacturing and selling T-shirts mainly to tourists. The Employee's duties were to open the Employers' business place at Popeshead Street, St. John's, and at Jardines's Court, St. John's, where she sold T-shirts. She also collected the cash from the businesses. During the course of her employment the Employers did not have any

complaints or expressions of dissatisfaction with the Employee's performance and the Employers never had occasion to complain about her work or write her any warning letters. On one occasion the Employers complained that the Employee had committed larceny of cash and fraud but this was never verified by the Police who investigated the matter.

The Employee became ill on October 11, 2001, and consulted a doctor; she was given a Medical Certificate stating that she was unfit for work until October 22, 2001. On October 22, 2001, the Employee again consulted her doctor and was put on further sick leave until October 28, 2001.

The Employee originally kept the keys for both the business places and when she reported for work at Popeshead Street at the usual hour on October 29, 2001, she was not able to unlock the doors - the locks had been changed. The Employee tried to contact Mr. Holborough, the Manager of the company but all her efforts were in vain.

The Employee concluded that the Employers no longer wanted her services and that she had been dismissed. In his evidence Mr. Holborough stated that the Employee had been dismissed in August 2001, and compensated. The Employee sought new employment and did not find a job until January 2003, when she took up employment as a cook.

At the time of her dismissal the Employee was earning \$800.00 per fortnight and in her new job she is earning \$600.00 per week, fortnightly paid.

Further to her dismissal and pursuant to Section C.10 (1) of the Antigua and Barbuda Labour Code, Cap. 27, Solicitors acting for the Employee, by letter, requested from the employers a statement (See Exhibit MM 3) of the precise reasons for the dismissal. No response was given to the letter of request and at the Hearing Counsel for the Employee sought to invoke

the provisions of Section C.10 (4) of the labor Code and the Employers were estopped from leading any evidence on the matter.

The Employee worked for the Employers for a period of approximately 12 months (October 2000 to October 28, 2001) at approximately \$ 400.00 per week or \$66.66 per day so that her basic Award is $\$66.66 \times 12 = \$799.92$.

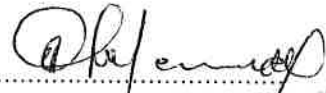
The Employee is entitled to compensation for Immediate Loss but it is to be noted that she did not commence a new job until January 2003. It is my belief that with due diligence she should have been able to find new employment/self-employment within four months or 16 weeks and thus the Award here is $\$400.00 \times 16 = \$6,400.00$.

There shall be no Award for manner of Dismissal or Future Loss.

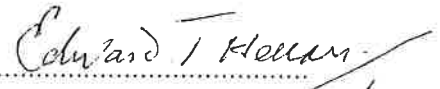
It is hereby ordered that the Employers shall pay to the Employee the sum of \$7,199.92, payment to be made by May 31, 2004.

There shall be no order as to costs.

DATED the 23rd day of April, 2004


Cyril L. Maundy
President

I concur


Edward T. Henry
Member

I concur


Genevieve Benjamin(Miss)
Member