

ANTIGUA & BARBUDA

IN THE INDUSTRIAL COURT

Ref. No. 25 of 2005

BETWEEN:

EURAL BAPTISTE

Employee

and

BANK OF NOVA SCOTIA

Employer

Before:

The Hon. Philip A. Pilgrim

President

The Hon. Edward T. Henry

Member

The Hon. Samuel R. Aymer

Member

Appearances:

Ms. E. Ann Henry in association with Ms. Jasmine Wade

Attorney-at-Law for the Employee

Mr. Charlesworth O.D. Brown in association with Mrs. Racquel Walsh- Silston

Attorneys-at-Law for the Employer

**2007, November 15, 16 & 22
2008, November 24**

JUDGMENT

PILGRIM, P:

INTRODUCTION

Some essential facts

- [1] Antigua & Barbuda facilitates the provision of a wide variety of private commercial business activities. One such activity is the provision of banking services. Several banks operate in this country. Some are locally owned. Some are owned by foreign entities.

- [2] The Bank of Nova Scotia is one of the banks which operate in Antigua & Barbuda. It shall sometimes afterwards be referred to as “the Bank”. It is foreign owned. It offers a wide variety of banking services to the people of Antigua & Barbuda. It provides locals with employment. There are several branches of the Bank. One of its branches is situated in High Street, in the Capital, St. Johns.
- [3] (i) Eural Baptiste resides at Cassada Gardens in St. Johns. He was first employed by the Bank on May 16, 1989. He started to work in the position of Customer Service Clerk. (CO2).
- (ii) Erna-Mae Tonge-Hurst is now a Senior Manager employed by the Bank. In June 2001 as the Bank’s the then Operations Manager she wrote Mr. Baptiste a letter dated June 19, 2001. The substance of that letter confirmed Mr. Baptiste’s “*temporary assignment to the post (of) handling the Branch’s reconciliations*”. This work involved *inter alia* making sure that entries and numbers were accurately complied. The branch referred to was High Street. It is to be assumed therefore that he worked at the High Street branch of the Bank.
- [4] The temporary assignment referred to at paragraph [3] (ii) took effect from May 7, 2001. It was scheduled to end on October 31, 2001, “*at which time the Bank will assess the long term need and permanent evaluation of the post.*” His annual salary was \$60,000.00. (This letter was admitted as “ET-1”).
- [5] Mr. Baptiste commenced the task of performing the branch’s reconciliations. He worked with other banking officers. The

reconciliation process continued beyond October 31, 2001. Mr. Baptiste worked in this position until December 2002.

- [6] Upon a review of the reconciliation process, Mr. Baptiste was promoted to the position of Personal Banking Officer. Mr. Brian Murdock is the Bank's Country Manager. He wrote the Employee a letter dated January 7, 2003. In that letter Mr. Murdock expressed his *"pleasure to confirm (Mr. Baptiste's) promotion to the position of Personal Banking Officer evaluated at grade SO1."* This promotion took effect from May 1, 2003. (This letter was admitted as "BM-1").
- [7] (i) The Bank further reviewed Mr. Baptiste's performance with regard to the reconciliation process. It discovered certain irregularities. It brought them to Mr. Baptiste's attention. The Bank took certain action against him. On March 31, 2003 the Bank wrote Mr. Baptiste a letter. It was marked as "BM-2".
- (ii) It particularised certain allegations against Mr. Baptiste. These included (a) the creation of fictitious narratives on entries; (b) the use of debit list numbers in series which related to other branches; (c) the changing of dates on "plugging entries"; and (d) the splitting of entries into smaller amounts to obviate the need to report to Head Office.
- (iii) In that letter the Bank (a) withdrew the promotion of Personal Banking Officer, (b) demoted Mr. Baptiste to the position of Teller; (c) made him ineligible for acting or promotional appointments for twenty-four (24) months from March 31, 2003.

(iv) Mr. Baptiste challenged the Bank's action referred to at paragraph 7 (iii).

[8] During his period of employment Mr. Baptiste enjoyed certain benefits from the Employer. These included (a) the staff coverage under the life and health policies inclusive of medical and dental care, (b) the staff deposit account rate, (c) the staff mortgage rate and (d) the staff credit card rate. In practical terms the staff mortgage interest rate was about 4.5% less than the customer rate. The credit card interest rate was 10% less than the customer rate. Service charges were now applicable to the operation of Mr. Baptiste's deposit account. His medical and dental coverage ceased on July 6, 2004.

[9] For some period during March 19, 2003 and May 19, 2003 the Employee reported that he was unwell sufficient enough for him to either (a) absent himself from work and/or (b) leave the work place for some period during some days. Erna-Mae Tonge-Hurst wrote Mr. Baptiste a letter dated May 20, 2003. In that letter she stated *inter alia* that (a total of six and a half ($6\frac{1}{2}$) uncertified sick days in a fifty eight (58) day period) is impacting negatively on the conduct of (Mr. Baptiste's) duties, (his) team and ultimately, customer service. (This letter was admitted as "EH-9".)

[10] On May 12, 2004 Mr Baptiste wrote certain information in and completed the Bank's Employee Loan Application Form. In that form he stated *inter alia* that he worked for a monthly salary of \$3,200.00 from Cyber Sports. This was an additional source of income. This latter organisation is also known as Sinsation Entertainment.

[11] By a letter dated June 22, 2004 the Bank dismissed Mr. Baptiste. The Bank submitted two reasons why it dismissed Mr. Baptiste. They are as follows:

- i. That Mr. Baptiste “*recorded an excessive number of uncertified absences.....resulting in continuous disruption of the Bank’s operations*”.
- ii. That the Employee never worked for a monthly sum of \$3,200.00 and that as at the date of his dismissal he was not employed by Sinsational Intertainment.

[12] After his dismissal Mr. Baptiste stated that he “*was unemployed for some time*”. He submitted letters of application to Bank of Antigua, Antigua and Barbuda Investment Bank (ABIB), Antigua Commercial Bank and Global Bank of Commerce. He was interviewed by officials of ABIB and Royal Bank of Trinidad and Tobago (RBTT) without success. No copies of these letters were produced for the Court’s verification.

[13] He obtained a temporary position with American Airlines in October 2004. His net monthly salary was \$1,700.00. He worked in this position until June 2005. In July 2005 he obtained employment with Antigua & Barbuda Development Bank where he is currently employed. He earns a net monthly salary of \$3,700.00 inclusive of a travelling allowance of \$600.00.

LEGAL PROCEEDINGS

[14] A Reference was filed on behalf of the Employee on October 4, 2005. The Employee claims to be unfairly dismissed. The Employee’s

Memorandum was filed on January 12, 2006. In that Memorandum Mr. Baptiste claims loss of employment security, loss of immediate earnings, loss of future earnings, loss of employment benefits, and loss of employment opportunities.

[15] The Employer's Memorandum was filed on July 30, 2007. The Bank contends that Mr. Baptiste was terminated for just cause. He is therefore not entitled to any relief.

[16] Mr. Baptiste filed his Witness Statement on November 12, 2007. Two Witness Statements on behalf of the Employer were filed on August 13, 2007.

THE ISSUES

[17] The issues which this Industrial Court has to consider are as follows:

- (i) What significance if any should this Court attach to the allegations made by the Bank against Mr. Baptiste referred to at paragraph 7 (ii) hereof.
- (ii) Whether the Employee's absences from work due to illness for the period March 1, 2003 to May 20, 2006 amounts to misconduct which warranted summary dismissal.
- (iii) Whether the information that the Employee wrote in his Scotiabank Employee Loan Application Form dated May 12, 2004 constitutes misconduct which warranted summary dismissal.
- (iv) In the event that the Employee is held to be unfairly dismissed, what is the award that is due to him?

The Employee's Submissions

[18] Ms. Henry Attorney-at-Law for the Employee made the following submissions:

- (i) The dismissal of the Employee was, in fact a summary dismissal;
- (ii) The Employee's dismissal was unfair. As a consequence the test for determining whether the Employer had just cause for dismissing the Employee is governed by Section C58 (1) (a) Section C58 (2) and Section C59 (1) of the Antigua & Barbuda Labour Code;
- (iii) The Court should consider **Cable & Wireless (W.I.) Ltd. V Hill and others (1982) 30 W. I. R. 120** with regard to the quality of evidence which must be adduced by the Employer who seeks to establish gross misconduct of the Employee.
- (iv) The Employer failed to adduce cogent and weighty evidence so as to substantiate its claim of gross misconduct. It has not shown that there is a factual basis for the alleged misconduct as is required to be established pursuant to Section C58 (2).
- (v) The Employee's completion of the Applicant Form was done in his capacity as a customer.
- (vi) In any event the Employee's insertion of his salary at Cyber Sports where he was temporarily laid off is not the sort of misconduct which is so serious that it would offer the Employer

no other course than termination. Ms. Henry cites **Danzlear Dublin v The Royal Bank of Canada Ref. No. 15 of 1983.**

- (vii) The Bank had a discretion to accept or reject the Scotia Bank Employee Loan Application Form;
- (viii) No evidence existed that Mr. Baptiste had in fact taken unauthorised leave on the dates alleged by the Employer;
- (ix) The Court should not take into consideration any of the allegations against the Employee referred to at paragraph 7 (ii) hereof.

The Employers' Submissions

[19] Mr. Brown, Attorney-at-Law for the Employer made the following submissions:

- (i) In every contract of employment there is a fundamental implied term of mutual trust and confidence between the Employer and the Employee. He cites **Sinclair v Neighbour [1966] 3 All E.R. 988.**
- (ii) An employee owes a duty of good faith to his employer. Any misconduct which is inconsistent with the faithful discharge of the employee's duty of good faith may result in summary dismissal.
- (iii) Section C 58 (i) of the Labour Code applies to the facts of this case;

- (iv) An employee should be afforded an opportunity to be heard in certain circumstances before he is dismissed;
- (v) A consideration of the surrounding circumstances is important before an employer dismisses an employee. The employer should take into consideration the nature of the employer's business; the employee's length of service and the employee's past record.
- (vi) The Court should consider the allegations made by the Employer against the Employee referred to at paragraph 7 (ii) hereof.
- (vii) Mr. Baptiste absented himself from work very frequently. These absences negatively impacted the conduct of the Employer's business up to the date of the Employee's dismissal.
- (viii) Mr. Baptiste submitted in his Scotia Bank Employee Loan Application Form wrong information that he earned a monthly sum of \$3,200.00 from Sinsational. The submission of this information is serious misconduct which justifies summary dismissal of the Employee.
- (ix) The Employer acted reasonably in its dismissal of the Employee.

THE LAW

[20] C56 of the Labour Code states as follows:

“C 56. Every employee whose probationary period with an employer has ended shall have the right not to be unfairly dismissed by his employer; and no employer shall dismiss any such employee without just cause.”

C58 (1) (a) and (2) of the Labour Code reads as follows:

“C 58. (1) A dismissal shall not be unfair if the reason assigned by the employer therefor

(a) relates to misconduct of the employee on the job, within the limitations of section C 59 (1) and (2);

(b);

(c);

(d);

(e);

Provided, however, that there is a factual basis for the assigned reason.”

C 58 (2) states as follows:

“ (2) The test, generally, for deciding whether or not a dismissal was unfair is whether or not, under the circumstances, the employer acted unreasonably or reasonably but, even though he acted reasonably, if he is mistaken as to the factual basis for the dismissal, the reasonableness of the dismissal shall be no defence, and the test shall be whether the actual circumstances which existed, if known to the employer, would have reasonably led to the employee’s dismissal.”

C 58 (1) (a) must be read in conjunction with C 59 (1). C 59 1 (a) states as follows:

“C 59. (1) An employer may terminate the employment of an employee where the employee has been guilty of misconduct in or in relation to his employment so serious that the employer cannot reasonably be expected to take any course other than termination.

Such misconduct includes, but is not limited to situations in which the employee has

(a) conducted himself in such a manner as to clearly demonstrate that the employment relationship cannot reasonably be expected to continue;

(b)

(c).....”

[21] In **Jupiter General Insurance Co. Ltd. V Schroff** [1937] 3 All E.R. 67 the Privy Council made two observations which are to be borne in mind. The first is that summary dismissal is a strong measure which may be justified only in exceptional circumstances. The second is that the test to be applied in determining whether a summary dismissal was justified would vary depending upon certain circumstances. Such circumstances would include the nature of the business and the position held by the employee. – **See Lord Maugham at page 74 C.**

[22] This variable approach was utilised by the Court in **Neary v Dean of Westminster** [1999] I.R.L.R 288, where ideas taken from the modern law on the implied term of trust and respect were also introduced, looking at whether the employee’s conduct was such as to undermine completely that element of the employment relationship.

[23] In **Cable & Wireless (WI) Ltd v Hill and Others** (1982) 30 W.I.R. **Berridge JA** in delivering the Judgment of the Court of Appeal stated *inter alia* at page --- as follows:

“[T] he burden of proof was on the company to show ‘just cause’ for dismissing the employees and that

since summary dismissal constituted a “strong measure” the standard of proof should be strict, persuasive and convincing. Further, understanding the fact that this is a matter of civil nature requiring proof on the balance of probabilities, since the matters to be proved were of a grave and weighty nature, it would expect the evidence to be corresponding cogent and weighty in nature and content.”

[24] Whether misconduct justifies summary or instant dismissal is a question of fact in each case. Decisions in other cases are of little assistance. There is no fixed rule of law which defines the degree of misconduct which will justify summary dismissal. The test for a determination of whether or not a sufficiency of misconduct exists for a finding that the employer was justified in summarily dismissing the employee was stated by **Lord Jauncey in Neary v Dean of Westminster** *op cit* at page 291 No. 22 as follows:

“[C]onduct amounting to gross misconduct justifying dismissal must so determine the trust and confidence which is inherent in the particular contract of employment that the master should no longer be required to retain the servant in his employment.”

ISSUE NO.1

What significance, if any, should this Court attach to the allegations made by the bank against the Employee referred to at paragraph 7 (ii).

- [25] Mr. Charlesworth Brown for the Employer submits that certain allegations made by the Bank against the Employee should be taken into consideration. He states that they were a part of the circumstances of the dismissal. Ms. Anne Henry submits that the Court should not have regard to the allegations. To do so would expose the Employee to “*double punishment*”. No cases were cited by both Attorneys-at-Law.
- [26] Mr. Charlesworth Brown for the Bank submits that as at the date of the Employee’s dismissal by letter of June 22, 2004, a letter of warning was still in existence. According to Mr. Brown the letter of March 31, 2003 (“BM2”) by the Employer to the Employee constituted a period of 24 months during which time if the Employee committed any further act which constituted misconduct, the Employer was justified in summarily dismissing the Employee.
- [27] Mrs. Erna-Mae Tonge-Hurst in answer to Ms. Henry “*did not see a period of 24 months mentioned in ETH-2*” nor “*a two year period to improve.*” Mrs. Tonge-Hurst in further response to Ms. Henry stated *inter alia* that she agreed “*that the time frame at paragraph D of ETH-4 would be for 4 weeks for Mr. Baptiste to achieve a fully satisfactory level of performance.*” Mrs. Tonge-Hurst also stated in further answer to Ms. Henry that “*the warning letter does not state 24 months for the Performance Improvement Programme*”.
- [28] (i) There is considerable force and merit however in Ms. Henry’s submission that it would be absolutely wrong for this Court to have any regard to any allegations of misconduct referred to at paragraph 7
(ii). The evidence of Mrs. Tonge-Hurst and Mr. Brian Murdock the

Bank's Country Manager is very clear with regard to this matter. Mrs. Tonge-Hurst in answer to Ms. Henry stated *inter alia* as follows:

“The bank dismissed Mr. Baptiste for providing the bank with false information on the staff loan application and for absenteeism. There was no other reason. The earlier events prior to March 31, 2003 had no bearing on the decision to terminate Mr. Baptiste.”

(ii) Mr. Brian Murdock in answer to Ms. Henry stated *inter alia* as follows:

“The reason for dismissal was the falsification in his Staff Loan Application.”

[29] The case law does support Ms. Henry's submission that it would be wholly wrong to examine any of the allegations referred to in the letter of March 31, 2003. Mr. Baptiste was already punished by the Bank. He was demoted. For this Court to refer to them and to take account of them would be viewed as subjecting Mr. Baptiste to double punishment.

[30] There is a decision of the Industrial Court of Trinidad & Tobago which supports this finding. It is entitled **Bank and General Workers Union and the Unit Trust Corporation of Trinidad & Tobago, Trade Dispute No. 370 of 1997**. In this case an employee was suspended for two weeks for alleged misconduct at a meeting of October 10, 1997. **Mr. Addison M. Khan, Vice President of the Industrial Court** stated *inter alia* at page 22 as follows:

“There can be no doubt, therefore, that, in accordance with equity, good conscience and the principles of good industrial relations practice, the Corporation was unable to punish the worker again for such alleged misconduct. Just as it is a principle of good industrial relations practice that a worker may not be punished twice for the same offence. Having already taken disciplinary action against the worker by suspending him from his employment for two weeks, the Corporation was effectively estopped from taking further disciplinary action against him for the same offence or offences which it is alleged that he committed at the meeting of October 10, 1997.”

[31] No mention was made of any of the allegations referred to at paragraph 7 (ii) of this judgment in the letter of dismissal. In addition, for the reasons set out at paragraphs [28] to [30] I therefore hold that this Court shall not take into consideration any of those allegations. To do otherwise would expose Mr. Baptiste to double punishment. This would be manifestly wrong.

ISSUE NO. II

Whether the Employee’s absences from work due to illness for the period March 1, 2003 to May 20, 2006 amounts to misconduct which warranted summary dismissal.

[32] Mrs. Tonge-Hurst in answer to Ms. Henry stated inter alia as follows:

- (a) that when Mr. Baptiste “*took 16 certified sick days he was not in breach of the collective agreement*”,
- (b) “*Whenever Mr. Baptiste exceeded the uncertified sick days, he provided the Bank with the necessary medical certificate from a doctor. Mr. Baptiste’s absences from the Bank did not violate the Labour Code. The Bank did not send him to be medically examined.*”

[33] Brian Murdock also gave evidence for the Bank. In his evidence for the Bank he made reference to the letter of dismissal. His evidence with respect to Mr. Baptiste’s excessive number of uncertified absences since the disciplinary action was taken was that this “*was an issue but it was not the reason for this termination.*”

[34] There is therefore no merit in Mr. Browne’s submission that any absence from work by Mr. Baptiste since March 30, 2003 “*impacted negatively on the conduct of the Employer’s business.*” I therefore hold that upon the evidence given by Mrs. Tonge-Hurst and Mr. Brian Murdock and having examined all of the written evidence, the absences of Mr. Baptiste due to illness for the relevant period did not breach either the Labour Code or the Collective Agreement between the two parties.

ISSUE NO. III

Whether the information that the Employee wrote in his Scotiabank Employee Loan Application Form dated May 12, 2004 constitutes misconduct which warranted summary dismissal.

[35] For some period prior to his dismissal Mr. Baptiste and his wife mortgaged a property to the Bank. This mortgage loan was subject to being renewed at five year intervals. On these occasions the Bank made an assessment of the employees' finances. Adjustments may be made to the interest rate and the principal balance which remained outstanding on such loans. The Bank utilised a formula to arrive at an assessment of any new application for an adjustment to the existing mortgage loan.

[36] In 2004 Mr. Baptiste's existing mortgage rate and related matters came up for renewal. He made a new application for a revision of his loan. His Employee Loan Application was marked "EB-3". His existing mortgage balance was \$186,792.49. He paid it at the rate of 5 per centum interest per annum. There was an existing loan of \$32,549.91. He operated a Mastercard. The loan balance was \$5,599.32. He proposed to decrease the larger sum to \$24,941.72 to be paid at 6.5 per centum per annum.

[37] Mr. Baptiste submitted certain information in his Employee Loan Application. He stated *inter alia* (a) that as at May 12, 2004 he was employed by Cyber Sports; and (b) his monthly salary from Cyber Sports was \$3,200.00.

[38] The Bank investigated whether or not the information supplied by Mr. Baptiste was accurate. No evidence was led of the nature of the Bank's investigation. It however received a letter from Sensational Entertainment dated May 28, 2004. (This entity operates Cyber Sports). The Bank was informed that Mr. Baptiste was laid off from April 04, 2004. He worked for approximately \$18.00 per hour for

between 30 to 40 hours per week. His highest monthly income would have been \$2,880.00.

[39] Mr. Murdock for the Bank stated *inter alia* that before it dismissed Mr. Baptiste the Bank took into consideration the letter from Sinsational dated May 28, 2004. He was also aware that when an employee is laid off he may be recalled to work. He spoke with Mr. Baptiste. Mr. Baptiste informed him that he expected to be reinstated at Cyber Sports. When this took place his monthly salary would be \$3,200.00.

[40] There is a difference between \$3,200.00 and \$2,800.00. It is \$400.00. No evidence was led by the Employer to show if this difference was significant for the Employer. In other words did Mr. Baptiste qualify for his existing loan to be increased in accordance with his application? If he did not so qualify, what figure would he have been entitled to obtain as a consequence of earning extra monthly income in the sum of \$2,800.00?

[41] Were any other options available to the Bank other than instant dismissal? Did the action of Mr. Baptiste “*so undermine the trust and confidence which is inherent in the particular contract of employment that the master should no longer be required to retain the servant in his employment*”
- See Lord Jauncy in *Neary v Dean of Westminster* (op cit) at page 291 paragraph [22].

[42] The action of Mr. Baptiste was committed in his capacity predominantly as a customer of the Bank. In this capacity the Bank

had different options available to it. Firstly, it could have postponed taking any action upon the application until Mr. Baptiste verified with it whether or not he had resumed employment with Sinsational. If he was not recalled by the company then his application could have been deferred. Secondly, the Bank was in a position to deny Mr. Baptiste any approval of his existing loan facility. He would have continued to pay his mortgage at the existing rate bearing in mind that his existing monthly salary was not decreased. Thirdly, the Bank could have issued Mr. Baptiste with a warning if it so desired. When he completed the Employee Loan Application he had a legitimate expectation of being recalled to work at Sinsational. Mr. Murdock conceded as much in his cross examination that *“there’s a difference between being laid off and being terminated.”*

- [43] It is clear that the Bank took into consideration the events which took place prior to March 31, 2003 in its dismissal of Mr. Baptiste. Mrs. Erna Mae Tonge-Hurst in answer to Ms. Henry in cross examination stated *inter alia* as follows:

“The Staff Loan application and his absenteeism were not treated in isolation to previous events. A situation which was in existence was taken into consideration in making the decision to terminate”.

- [44] The Bank therefore rushed in its judgment to dismiss Mr. Baptiste in circumstances where (a) it took into consideration events which it ought not to have so taken and (b) the event with regard to Mr. Baptiste’s Loan Application was an isolated one.

[45] However, it requires very special circumstances to entitle an employee who has misled his employer to succeed in an action for unfair dismissal. But the circumstances of this case are in fact special. **Edmund Davies L.J. in Wilson v Racher [1974] I.C.R 428 at pages 433 and 434 Letters H and A** respectively stated *inter alia* as follows:

"To say that he ought to have been kicked out because on this solitary occasion he fell into such grave error would, in my judgment be wrong."

[46] I am not persuaded that the Bank acted reasonably in its decision to dismiss Mr. Baptiste. In all the circumstances of this case I find that Mr. Baptiste was unfairly dismissed by the Bank.

[47] The Employee must bear his proportion of responsibility for the circumstances which led to his dismissal. This is a well established practice in this Court. In the circumstances of this case I assess his degree of responsibility to be 50%. If any authority is required, see **Alexander Hughes v Antigua Brewery Limited Ref. No. 35 of 2002.**

ISSUE NO. IV

In the event that the Employee is held to be unfairly dismissed, what is the award that is due to him?

[48] An employee who is held to be unfairly dismissed may be entitled to certain awards under specific established headings. Mr. Baptiste's awards are as follows:

(a) Basic Award

The Employee was employed with the Bank from May 16, 1989 to June 22, 2004. This is a period of 15 years and one month. His last monthly salary was \$5,087.50. He is therefore entitled to $\$5,087.50 \times 181/12 = \$76,312.50$.

(b) Immediate Loss

The Employee obtained part time employment with American Airline from October 2004. His gross salary was \$1,900.00 per month. I award him the difference between the two salaries for a period of 4 months. The award is $\$5,087.50 - \$1,900.00) \times 4 = \$12,750.00$.

(c) Manner of Dismissal

Mr. Baptiste is not entitled to an award under this heading.

(d) Future Loss

Mr. Baptiste earns \$4,000.00 from the Antigua and Barbuda Development Bank. I award him the difference between the two salaries for a period of 4 months. The gross award before a deduction is subtracted is $(\$5,087.50 - \$4,000.00) \times 4 = \$4,350.00$. Taking into consideration the principle in **Antigua Village Condo Corporation and Jennifer Watt Civil Appeal No. 6 of 1992** I deduct 10 per centum from this award. The net award is \$3,915.00.

(c) Fringe Benefits

The benefits to which Mr. Baptiste were entitled to are outlined at paragraph 8 for the loss which he sustained. I award him \$10,000.00 under this heading.

CONCLUSION

[49] The Employer shall pay to the Employee the sum of **\$51,700.75**
(being \$103,401.50 les 50%) on or before December 31, 2008.

[50] There shall be no order as to costs.

Dated this 24th day of November 2008.



PHILIP A. PILGRIM
President

I agree.



EDWARD T. HENRY
Member

I also agree.



SAMUEL R. AYMER
Member