

ANTIGUA & BARBUDA

IN THE INDUSTRIAL COURT

REFERENCE NO. 43 OF 2015

BETWEEN

CALVIN AMBROSE

Employee

And

ANTIGUA & BARBUDA HOSPITALITY TRAINING INSTITUTE

Employer

**Before:**

The Hon. Charlesworth O.D. Brown

President

The Hon. Judith Dublin

Member

The Hon. John Benjamin

Member

**Appearances:**

Mr. Lawrence Daniels of Daniels, Phillips & Associates, Attorneys-at-Law for the Employee

Mr. Martin Camacho, Deputy Solicitor General, Attorney-at-Law for the Employer

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2016: July 26

2019: August 16

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**JUDGMENT**

**Brown, P;**

**Background**

1. The Employer is a body corporate established by the Hospitality Training Institute Act 2006. Its statutory aim is to provide a wide spectrum of academic and practical training for the promotion and encouragement of standards in the hospitality industry.



2. The Employee commenced his employment with the Employer on 19<sup>th</sup> September, 1990 as an Instructor. He was appointed Executive Director on 1<sup>st</sup> September, 2008 and served in that capacity until his dismissal on 27<sup>th</sup> February, 2015 on the ground of serious misconduct. The total of his emoluments at the date of his dismissal was \$8,500.00 per month.
3. Following the national general elections in June 2014 the Employer's board, then chaired by Ms. Desiree Edwards, was dissolved. In or about July 2014, a new board chaired by Ms. Shirlene Nibbs was constituted.
4. By letter dated 22<sup>nd</sup> August, 2014 Ms. Nibbs notified the Employee of her desire "to build a culture of open communication, trust and integrity" as the theme of the Employer's core values.
5. In his capacity as Executive Director and member of the Employer's Board of Directors, the Employee attended board meetings during the months of October 2014 and January 2015. Over that period several issues arose between the Board and the Employee in respect of the absences or vacation leave of senior employees; perceived tardiness of some heads of departments; the Employee's poor performance; lunches provided to the government's Treasury Department; and the inventory, requisition and purchasing of the Employer's goods.
6. Based on its view that the Employee was performing below standard, the Board activated a Performance Deponent Plan. The Plan was signed by the Chairperson and the Employee on January 20, 2015 with a view to achieving and sustaining an improvement in the Employee's overall performance.
7. During the month of December 2014 and January 2015 the Board followed up its concerns and held a series of meetings with staff members. Eventually reports and records were produced by the Board which put the Employee in bad light.
8. Based on selected records of the Employer and related reports commissioned by the Board, the Employee was invited to a meeting with the Board on January 28, 2015. At the meeting he was shown certain documents and invited to respond to the Employer's allegations against him.
9. In light of his responses, the Board decided to suspend him forthwith pending its investigation of the several matters of concern. The Employee was escorted to his office by the Chairperson and three other members of the Board where he collected his personal belongings.

10. The issues raised by the Employer and the circumstances leading to the suspension are accurately reflected in the suspension letter dated January 30, 2015 which reads as follows:

"January 30, 2015

Mr. Calvin Ambrose

...

Dear Mr. Ambrose,

In our emergency meeting of January 28 2015, the Board of Directors of the ABHTI discussed a number of issues which involved the management of the Institute's finances.

Specifically the issues are:

- The payments of vacation in lieu of vacation time on several occasions including once during the month of September 2014, without the appropriate Board and other approval
- The payment to yourself of vacation not yet earned
- The use of the Institute's finances to pay the insurance coverage of a vehicle owned by you and or one other individual
- The use of the Institute's finances to pay for repairs to your vehicle
- The taking of gasoline on consignment from at least one service station while at the same time being paid the travel allowance provided for in your employment agreement.

You were invited to join the meeting at which time the specific issues were brought to your attention. With respect to the vacation payments you accepted that the payments were made and that you would check any discrepancy with respect to your entitlement. The issue of the vacation payments was also raised with you in the Board meeting of January 15 2015, at which time you gave a commitment to have the issue resolved.

On the issue of the gasoline consignment, you indicated there was Board approval. You further indicated you could not offer any explanation with respect to the payment of the insurance and repairs for your vehicle from the Institute's funds.

The issue of the Institute's finances being possibly used for purposes other than intended, without the appropriate approval, and in breach of accounting procedures is of serious concern to the Board of Directors, and which we believe must be clarified.

The Board of Directors has determined that the clarity needed can only be brought about through a thorough investigation into all the spending discussed with you. Consequently, we have decided that such an investigation is to take effect immediately. Further, as indicated to you, it is also necessary to place you on suspension to allow for the investigation to be held in a fair and uncompromised manner.

The conditions of the suspension are as follows:

- The period of suspension is for four weeks effective January 29, 2015
- During the period of suspension you will be paid all salary and benefits
- During the period of suspension you may be required to make yourself available to meet with the investigative panel appointed by the Board
- During the period of suspension any visit to the compound of ABHTI on your part shall be at the request of the investigative panel or the approval of the Board only.

The Board of Directors of the ABHTI looks forward to your cooperation over the next four weeks as we work to bring clarity and resolution to all the issues.

Sincerely,  
Shirlene Nibbs  
Chairperson  
ABHTI Board of Directors

Cc: ...

11. On 30<sup>th</sup> January, 2015 the Employer made an unsuccessful attempt to deliver its letter of suspension to the Employee. Subsequently on February 2<sup>nd</sup>, 09<sup>th</sup>, 10<sup>th</sup> and 17<sup>th</sup> similar unsuccessful attempts were made by the Employer to deliver the following letters to the Employee:

- (a) the letter of suspension dated 30<sup>th</sup> January, 2015;
- (b) the letter dated 2<sup>nd</sup> February, 2015 inviting the Employee to a meeting;
- (c) the letter dated 06<sup>th</sup> February, 2015 inviting the Employee to a rescheduled meeting; and
- (d) the letter dated 16<sup>th</sup> February, 2015 disclosing the investigative report.

12. On 17<sup>th</sup> February, 2015 while the Employee was on suspension, the Board received a letter from his Attorney-at-Law, Mr. Lawrence Daniels, alleging that he had been constructively dismissed and claiming compensation therefor.
13. In light of its unsuccessful attempts to deliver the said letters to the Employee and the Employee's letter claiming constructive dismissal, the Deputy Solicitor General, Mr. Martin Camacho, acting on behalf of the Employer, wrote to Mr. Daniels inviting the Employee to a meeting on 24<sup>th</sup> February, 2015 to address the issues.
14. Due to the unavailability of Mr. Daniels to attend the scheduled meeting, Mr. Camacho wrote a follow-up letter to him dated February 27, 2015 in which he:
  - (a) Denied that the Employee had been constructively dismissed.
  - (b) Outlined the Employer's position and submitting the five letters which the Employer had earlier unsuccessfully attempted to deliver to the Employee.
  - (c) Requested the Employee's response to the allegations against him by 26<sup>th</sup> February, 2015.
15. In that letter, Mr. Camacho advised Mr. Daniels that: "In the absence of a response from you or your client the Board of the Institute may draw the conclusion that your client does not refute the allegations which have been made against him and the documentary evidence provided in support thereof."
16. By letter dated 27<sup>th</sup> February, 2015 the Employees was dismissed on the ground of "serious misconduct". In its comprehensive letter, the Employer outlined the background to the Employee's suspension, its several efforts to deliver the letters to him, and its discovery of "other questionable expenditure exposing the institute". The full text of the letter of dismissal reads:

*"February 27, 2015*

*Mr. Calvin Ambrose*

*....*

*Dear Mr. Ambrose*

*On January 28, 2015 the Board of Directors of the Antigua and Barbuda Hospitality Training Institute ("the Institute") invited you to a meeting of even date and brought to your attention a number of areas of concern specific to the management of the Institute's finances. This followed a previous Board meeting of January 15, 2015 at which time it was brought to your attention the vacation records of the Institute up to that date*

*indicated that you had overpaid yourself thirty nine (39) days' vacation. You gave a commitment at that meeting to have the matter corrected.*

*During your attendance at the January 28, 2015 meeting the issue of the overpaid vacation as well as three (3) other areas of concern was discussed with you. These other areas are (i) the use of the Institute's finances to pay your private vehicle insurance coverage; (ii) the use of the Institute's finances to pay for repairs to your private vehicle; and (iii) crediting gasoline on the Institute's account for your private vehicle from Midway Service Station, while being paid a monthly travel allowance.*

*In response to the concerns raised, you indicated to the Board of Directors that both the credit facility for gasoline at the Midway Service Station and the payment of your car insurance were both approved by the previous Board of Directors. The decision to use the Institute's finances to pay for repairs to your private vehicle was an arrangement you said was made between yourself and the former Accountant. You further indicated that you were to repay those funds, but no payment was made. You had no further explanation on the vacation issue even after it was brought to your attention that the vacation issue had been further compounded by your request for an advance on vacation payment which was not approved through the appropriate channel, but which you proceeded to pay to yourself.*

*You were informed by the Board of Directors at the meeting of January 28<sup>th</sup> 2015 that it was necessary for an investigation to be conducted into the financial spendings discussed with you and that it had also become necessary to place you on suspension during the investigative process to ensure that the investigation is fair and was not compromised.*

*You were further informed that the suspension would be for a period of four (4) weeks and be with immediate effect January 29 2015 as it was already the close of the workday of January 28<sup>th</sup> 2015; that you would be paid full salary and all benefits during the period of suspension; that you should make yourself available to meet with the investigative panel during the period of suspension at times indicated by the panel; and that to ensure the process was not compromised you should not visit the compound of the ABHTI during the period of the suspension, except with the permission of the investigation panel and/or the Chairperson of the Institute's Board of Directors.*

*Since the commencement of your suspension, several efforts were made by the Institute to deliver to your letter of suspension, to invite you to meet with the investigative panel as well as to deliver a package with several*

*documents related to the financial spendings. The efforts were by telephone, email and hand delivery on each occasion. The Institute's drivers and two other employees, as well as a police officer attempted to deliver to you said letters and a package on February 2, 2015, February 4, 2015, February 9, February 10 and February 17, 2015. On the first occasion when contacted by the Institute's driver Stephen Christian, who asked for directions to your home you informed him that he should deliver the letter to your lawyer. On the second occasion, you refused to respond to the Institute's driver Derek Martin who was accompanied by another employee of the Institute, who came to your home to deliver correspondence and a package to you. On the third occasion, you informed the police officer who was sent by the Institute to deliver correspondence to you that you will not be accepting anything from the Institute.*

*The Institute had also sent the letter suspension dated January 30, 2015 and a letter dated February 2, 2015 inviting you to meet with the investigate panel via email to your email address. You never responded, neither did you attend the meeting of the panel to which you were invited.*

*Since your suspension other questionable expenditure exposing the Institute have been uncovered. Your refusal to accept the correspondence and other documents sent to you to aid in the investigation as well as your failure to attend the meeting with the investigative panel indicates your deliberate refusal to cooperate in a process established to resolve concerns about the use of the Institute's finances over which you had responsibility and which involved you directly, as well as gross insubordination. Further, the investigative panel has examined the Institute's records including the minutes of meetings of the Board of Directors spanning several years and found no evidence of the Board's authorization of any of the expenditure as indicated by you in the meeting of January 28, 2015. Neither was there any appropriate approval for the vacation payment in excess of earned leave.*

*A letter dated February 17, 2015 was received from your Attorney Mr. Lawrence Daniels of Daniels, Phillips & Associates. The institute instructed the Deputy Solicitor General to respond on its behalf to your Attorney. Letters dated February 20, 2015, February 24, 2015 and February 27, 2015 were sent to your Attorney by the Deputy Solicitor General.*

*Having given due consideration to your refusal to accept the correspondence sent to you by the Institute's Board of Directors, your failure to attend the meetings set by the investigative panel, the misappropriation of the Institute's finances for your personal use, the*

*letter from your Attorney dated February 17, 2015, the allegations of which are denied, and the letters of the Deputy Solicitor General dated February 20, 24 and 27, 2015 the Board of Directors of the Antigua and Barbuda Hospitality Training Institute has taken the decision to terminate your employment with the Institute effective February 27, 2015 due to your serious misconduct.*

*We wish also to advise you that the Institute intends to make a claim against you for the repayment of all of the Institute's monies which you have used for personal expenses and for which appropriate approval was not given.*

*Yours truly,  
Shirlene A. Nibbs  
Chairperson*

*cc. ... "*

17. By letter dated 03<sup>rd</sup> March, 2015 to the Deputy Solicitor General, the Employee, through his Attorney-at-Law, maintained that he had been constructively dismissed.

#### The Opposing Cases

18. In his Reference filed on 27<sup>th</sup> July, 2015 commencing these proceedings, the Employee identified the main issue to be: "Whether or not the Employee was wrongfully and/or unfairly terminated on 28<sup>th</sup> January, 2015." It is noteworthy that constructive dismissal was not included among the seven issues listed.
19. By its Memorandum of Claim filed on 4<sup>th</sup> September, 2015, the Employee recited the chronology of events leading to his dismissal. Atypically, the last 5 paragraphs read as follows:

*"41. That the Employee was suspended for one (1) month and was dismissed before the suspension was up or before the date for him to resume his work.*

*42. That the Employee receive no notice pay, no holiday pay and no severance pay.*

*43. That the Employee's dismissal was against the spirit of the Labour Code.*

*44. That the Employee was not given a date for any hearing for the reason for his suspension and was dismissed without due process of natural justice.*

*45. That the Employee was escorted off the compound like a common criminal and all the keys and ID to his office were taken. No letter was ever issued to the Employee setting out the reason for his suspension or resumption of work."*

20. Strikingly, without laying the necessary foundation, in his prayer for relief the Employee claimed "the sum of \$184,000.00 for constructive dismissal. Interestingly, the Employee also claimed the sum of \$68,000.00 as "eight months loss of job protection".
21. Not surprisingly, the Employer's Memorandum of Defense was structured to answer in sequence the assertions in the Employee's Memorandum. Ultimately, save for admitting that "the Employee received no notice pay, holiday pay or severance pay." when he was dismissed, the Employer joined issue with the Employee on his claim.

#### The Main Issues

22. Based on the contents of the Memoranda, we have identified the main issues for our determination as follows:
- (1) Whether the Employee was unfairly suspended?
  - (2) Whether the Employee was constructively dismissed?
  - (3) Whether the Employer had sufficient factual bases for its assignment of "serious misconduct" as a good cause for the dismissal of the Employee.
  - (4) Whether, in the circumstances, the Employer acted reasonably in dismissing the Employee on the ground of serious misconduct.

#### Issue No.1: Whether the Employee was unfairly suspended

23. The resolution of this issue, as well as Issues No. 3 and 4 will be determined within the parameters of the provisions of Sections B3, C58, C59 of the Antigua & Barbuda Labour Code (the Labour Code) which read as follows:

*"B3"suspension" means temporary lay off from work for not more than four weeks with or without pay as a penalty or pending investigation of the employee's alleged misconduct."*

*C58 (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) ...*

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

*C 58 (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.*

*C59 (1) An employer may terminate the employment of an employee where the employee has been guilty of misconduct in or 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) ...*

*C59 (2) Where an employee is guilty of misconduct in or in relation to his employment that is not sufficiently serious to permit his employer to terminate his employment under subsection (1) but is such that the employer cannot reasonably be expected to tolerate a repetition, the employer may give the employee a written warning which shall describe the misconduct in respect of which the warning is given and state the action the employer intends to take in the event of*

- (a) a repetition of the misconduct; or*
- (b) the commission of another misconduct which is as serious as the one in respect of which the written warning was given.*

*C59 (3) The action to be taken under subsection (2) may include suspension without pay for such period as may be specified in the written warning."*

**24. In Reference No. 56 of 2016 Otis Teague v Antigua & Barbuda Utilities**

**Authority** this Court examined the statutory provisions in respect of suspensions and concluded that although there are no express provisions dealing with investigatory suspensions, it is clear that they may be effected under section C 59 (3) provided that the period of suspension does not exceed the 4 week limit established by the definition of suspension under section B3.

25. As to whether the Employer had sufficient bases for suspending the Employee on 28<sup>th</sup> January, 2015, we wholly accept the testimony of Mrs. Nibbs that as at that date several serious irregularities, which had come to its attention, were in turn brought to the attention of the Employee. These include those set out in the suspension letter dated January 30, 2015 which is substantially reproduced at paragraph 10 above.
26. The Employee was allowed to respond to the several allegations, after which the Board decided that a further and more thorough investigation was required immediately. In the circumstances, in light of the Employee's responses, it was proper and reasonable for the Employer to immediately suspend the Employee for a period of 4 weeks so that it could conduct an "uncompromised investigation" into the several irregularities.
27. We accept Ms. Nibbs' evidence that the Employee was advised that the letter of suspension would be issued to him within 48 hours after the commencement of the suspension. We are satisfied that the letter was in fact issued but the Employer's efforts to deliver it to the Employee were rendered futile by his deliberate evasion.
28. In the final analysis, we are satisfied that a reasonable suspension was effected for the purpose of conducting the desired proper investigation. The suspension was imposed in conformity with the provisions of sections B3 and C 59 (3) of the Labour Code. It started on 29<sup>th</sup> January 2015 and ended on 25<sup>th</sup> February 2015.
29. Accordingly, we find no fault with the suspension of the Employee and the content of the suspension letter dated 30<sup>th</sup> January, 2015 of which the Employee is deemed to have had full knowledge at the material time.
30. In the premises, we resolve Issue No.1 in favour of the Employer. The Employee was not unfairly suspended.

Issue No.2: Whether the Employee was constructively dismissed?

31. Unlike Issues No.1, 3 and 4, this issue does not turn on the statutory provisions. It derives from the inherent nature of the contract of employment. In that regard, the threshold for establishing a successful claim of constructive dismissal is the existence of a breach of an express or implied fundamental term of the contract of employment.
32. In his closing submissions, learned Counsel for the Employer relied on the principles laid down in the landmark judgment of **Western Excavating (EEC) Ltd. v. Sharp [1978] IRIR 27**. Those principles have been applied by this Court on several occasions, the last of which was Reference No. 50 of 2015: **Deborah Lake v. Antigua Commercial Bank**.
33. Based on the leading authority of the **Western Excavating case** and the previous application of the relevant principles in by this Court, we are of the opinion that the Employee's claim of constructive dismissal is spurious at best. We are easily persuaded by Mr. Camacho's submission that there was no breach of any fundamental term, express or implied, of the contract of employment. We wholly agree with learned Counsel's submissions regarding the lawful and reasonable course of action taken by the Employer in respect of the irregularities in its affairs and its conclusions or suspicions about the conduct of the Employee.
34. In any event, the Employee failed to establish any good grounds for its claim of constructive dismissal either in his Memorandum of Claim or by his evidence.

Issue No. 3: Whether there were any factual bases for the assignment of serious misconduct as a good cause for dismissal?

35. There is no doubt that under section C 58 (1) of the Labour Code serious misconduct is a potentially good cause for dismissal subject always to the proviso that there is a good factual basis for that assigned reason. Clearly, this is a question of fact to be determined on the balance of probabilities based on the oral testimony of the witnesses as well as the documentary evidence. To the desired end, we carefully observed the demeanor and assessed the veracity of each witness.
36. On the one hand, the Employee testified on his own behalf and had no supporting witnesses. On the other hand, Ms. Nibbs and no less than 6 corroborating witnesses testified on behalf of the Employer. At first blush, it was noticeable that the Employer's evidence was preponderant both in terms of scope and pertinent particulars. After careful consideration of the latter as a whole, we

conclude that it was more credible than that of the Employee. In passing, we note the Employee's omission to call Ms. Edwards, the predecessor Chairman of the Board and/ or any other member of the predecessor Board to corroborate his testimony and perhaps serve as a counterbalance to the Employer's several witnesses.

37. It is also noteworthy that under cross examination, the Employee did not strike us as being as assertive and as believable as would be objectively expected given the position he held as the Employer's Executive Director. To the contrary, his answers to questions put to him under cross-examination tended to be tentative and lacking in conviction. In particular, when the absence of any record of certain alleged board decisions was put to him, he repeatedly responded that he "would be surprised" if such decisions were not recorded.
38. Importantly, the Employee admitted that he was aware that the Board was concerned about several irregularities which developed under his watch, including those listed in the suspension letter reproduced at paragraph 10 above.
39. Moreover, as to the Performance Improvement Plan, the Employee admitted that the Board brought it to his attention that it was concerned about his job performance. In that regard, he testified that he agreed to embark on Plan. Further, the Employee also admitted that other matters of concern, which were documented by the Employer, were brought to his attention including the Disparity Vacation Report which showed that he had exceeded his vacation entitlement by over 23 days and had received cheques for payment in lieu of vacation to which he was not entitled and which were not approved.
40. In addition, the Employee admitted that at the Board meeting on January 28, 2015, a number of documented financial irregularities were brought to his attention. He also admitted that during the meeting Ms. Nibbs told him that those were "serious matters" and that he would be placed on suspension for 4 weeks to ensure that the planned investigation would not be compromised. Further, the Employee admitted that Ms. Nibbs told him that the Board expected his full cooperation during its investigation.
41. As to the Employer's efforts to deliver the letter of suspension and other documents to him after January 28, 2015, the Employee admitted that efforts were made by Mr. Stephen Christian and Mr. Derek Martin both of whom he directed to his lawyer without naming that person. When the question was put to him by the Court as to whether he had received documents by email, the Employee responded that his computer was "down" during the month of January 2015.

42. As to the Board's efforts to convene a meeting with him during the period of his suspension, the Employee admitted that he did not make himself available. He also admitted that even after he had received the bundle of documents from his Attorney he never attended any meeting with the Board because by then he was already contending that he had been constructively dismissed.
43. We note here that the evidence of Inspector Ray A. John of the Royal Police Force is particularly instructive in so far as it confirms the Employee's negative, uncooperative and "dismissive" attitude towards the Employer.
44. In the circumstances, based on the Employee's own testimony, we are inclined to conclude that there were good factual bases for the Employer's conclusion that he was guilty of serious misconduct.
45. On the balance of probabilities, we find that when the Employee was suspended with effect from January 29, 2015, it was or should have been clear to him that the Board suspected that he was using or benefitting from the use of the Employer's finances for purposes other than those intended without appropriate approval. In this regard, we note that in his comprehensive analysis of the pertinent evidence, Mr. Camacho underscored the several issues subsisting as at January 28, 2015 and the Employee's responses. We accept his summary as being accurate.
46. We also adopt learned Counsel's summary, which we consider to be accurate, as to what was said to the Employee at the time of his suspension.
47. In the circumstances, we resolve this issue in favour of the Employer. There were clear factual bases, of which the Employee was well aware, for the Employer's conclusion that he was guilty of serious misconduct.

Issue No. 4: Whether the Employer acted reasonably?

48. We are satisfied that during the period of suspension, the Employer continued its investigation regarding the matters alleged against the Employee. The Board searched through the Minutes of Board meetings of the predecessor board and other records but found no explanation or authorization for any of the financial benefits which the Employee apparently received but was not entitled to.
49. For convenience, we also adopt the submissions on the facts made by Mr. Camacho which are all consistent with the dismissal letter and the evidence of Ms. Nibbs.

50. Having regard to all the circumstances, we conclude as follows:

- (1) The Employee knew what was alleged against him;
- (2) There were clear factual bases for the Employee's alleged misconduct;
- (3) The suspension of the Employee was reasonable in the circumstances;
- (4) The investigation carried out by the Employer was diligent;
- (5) The Employer invited the Employee to participate in the investigations;
- (6) The Employee refused to participate in the investigative process.
- (7) The Employee deliberately evaded the delivery of the Employer's letters to him;
- (8) The Employer offered the Employee adequate opportunities to be heard in his own defence;
- (9) The Employee consciously refused to avail himself of the opportunities to be heard in his own defence;
- (10) There was no denial of natural justice.

51. In the final analysis, we find that the Employer (a) established a sound factual basis under section C 58 (1) for its conclusion regarding the Employee's misconduct; (b) passed the test of reasonableness under section C 58 (2), and acted reasonably in dismissing the Employee on the ground of serious misconduct under section C 59 (1) (a) of the Labour Code.

52. In the premises, we dismiss the Employee's claim in its entirety and make no order as to costs.

Dated this 16<sup>th</sup> day of August, 2019



Charlesworth O.D. Brown  
President



Judith Dublin  
Member



John Benjamin  
Member

