

THE INDUSTRIAL COURT OF ANTIGUA AND BARBUDA

REFERENCE NO.: C/32 OF 2017

BETWEEN:

DAOUD SAMAAAN

and

THE CANCER CENTRE, BAHAMAS LTD

Employee

Employer

FINAL ORDER AFTER TRIAL

Before:

The Hon. Charlesworth O.D. Brown

The Hon. Judith Dublin

The Hon. Hesketh A. Williams

President

Member

Member

DATED the 6th day of April, 2023

ENTERED the 06th day of April, 2023

APPEARANCES:

Mr. Justin L. Simon KC, of Simon Rogers Murdoch, Attorneys-at-Law for the Employee

No appearance by or on behalf of the Employer

THIS REFERENCE having come up for the continuation of trial on November 29, 2022;

UPON HEARING Counsel's viva voce application for an order that the matter proceed ex parte;

THE COURT granting the application;

AND UPON HEARING the oral testimony of the Employee including his affirmation of and reliance on his witness statement and supplemental witness statement filed on December 7, 2017 and May 22, 2018, respectively;

HAVING REGARD to the orders made on March 29, 2018 and July 9, 2018 and the Employer's failure or refusal to comply with the same;



AND UPON HEARING AND READING Counsel's oral and written closing submissions;

IT IS HEREBY DECLARED that the Employee, a Clinical Oncology Specialist, was unfairly dismissed and is entitled to compensation and costs as stated below.

AND IT IS HEREBY ORDERED THAT:

1. The Employer do pay compensation and costs to the Employee as assessed under the selected headings as follows:

- a) **Outstanding Accrued Salary**

- The sum of US\$ 9,999.99, representing outstanding salary for the period of June 15, 2016 to July 31, 2016;

- b) **Interest on Outstanding Accrued salary**

- The sum of US\$ 6,666.66, being interest at the rate of 10% per annum from July 31, 2016 to date pursuant to Section C34 (2) of the Labour Code;

- c) **Additional Interest**

- Additional interest at the rate of 10% per annum from March 31, 2023 until payment of the outstanding accrued salary;

- d) **Outstanding Judgment Debt**

- The sum of US\$ 43,333.29, being the equivalent of severance pay, under the order dated July 9, 2018;

- e) **Outstanding Costs**

- The sum of EC\$ 3,500.00 (US\$ 1,296.30), being the costs awarded under the order dated July 9, 2018;

- f) **Payment in Lieu of notice**

- The sum of US\$ 6,666.66, being the equivalent of one month salary;

- g) **Immediate Loss:**

- i. The sum of US\$ 39,999.96, being the equivalent of the Employee's aggregate salary for the 6 months immediately after his dismissal
 - ii. The net sum of US\$ 31,268.62, the equivalent of his aggregate salary for the ensuing 6 months in the sum of US\$ 39,999.96 less US\$ 8,731.34 being the amount earned in subsequent employment;

- h) **Exemplary Damages**

- The sum of US\$ 15,000.00 on account of the harsh and oppressive nature of the dismissal and the Employer's blatant disregard for the principles and practices of good industrial relations.

i) Additional Costs

The sum of EC\$ 1,500.00 (US\$ 555.56) as additional costs, by reason of the exceptional facts and surrounding circumstances.

2. The Employer shall pay the aggregate sum of US\$ 154,787.04, inclusive costs, plus additional interest under paragraph 1 (c) above, no later than May 15, 2023.

BY THE COURT

A handwritten signature in dark ink, appearing to read "Denniel Canoville", written over a dotted line.

Denniel Canoville
Registrar

