

IN THE INDUSTRIAL COURT OF
ANTIGUA AND BARBUDA



REFERENCE NO: C/64 of 2016

BETWEEN:

KARL SKEPPLE

Employee

AND

ANTIGUA WIRELESS VENTURES LTD
t/a DIGICEL

Employer

ORDER

Before: The Hon. Charlesworth O.D Brown President
 The Hon. Hesketh A. Williams Member

Dated the 20th day of September 2023

Entered the 04th day of October 2023

Appearances:

Mr. Kendrickson H. Kentish and Ms. Cherise Archibald of Lake, Kentish & Bennett Inc.,
Attorneys-at-Law for the Employee

No appearance by or on behalf of Andrew O'kola of OMO Law, Attorneys-at-Law for
the Employer

THIS REFERENCE having come up for trial;

HAVING REGARD to:

- a. The absence of Counsel for the Employer or anyone holding papers for him; or any corporate representative or other official of the Employer;
- b. The chronology of proceedings to date with particular reference to the several adjournments.
- c. The Employer's failure to comply with the Orders dated May 05, 2021, March 23, 2023, and April 14, 2023, whereby it was repeatedly required to file its Witness Statements.

THE COURT being satisfied that the Employer, as on previous occasions, was served with timely Notice of the Trial date.

UPON HEARING the vica voce application of Counsel on behalf of the Employee for an order that the trial proceeds ex parte;

AND THE COURT granting the application;

AND UPON HEARING AND CONSIDERING the oral and documentary evidence of the Employee, including his responses to questions posed by the Court.

AND UPON HEARING the submissions of Counsel for the Employee;

AND HAVING REGARD to the Courts findings of fact, including the following:

1. The Employer failed to provide the Employee with a statement of the precise allegations against him;
2. The Employer failed or refused to provide the Employee with a copy of the accuser's written report of the Employee's alleged misconduct;
3. The Employee failed or refused to conduct a full and proper investigation of the allegations against the Employee;
4. The Employer failed or refused to inform the Employee of the outcome of its purported investigation;
5. The Employer failed or refused to conduct a full and proper disciplinary hearing;
6. The Employer refused to allow the Employee's Counsel to attend its purported disciplinary hearing;
7. The Employer deprived the Employee of his right to natural justice and failed to abide by the principles and practices of good industrial relations.
8. The Employer failed to discharge its evidentiary burden of proving that (a) it had a sound factual basis for dismissing the Employee; AND (b) that, under the circumstances, it acted reasonably in dismissing the Employee.

IT IS HEREBY DECLARED that: the Employee was unfairly dismissed and is entitled to compensation therefor.

AND IT IS HEREBY ORDERED that:

1. The Employer do pay compensation to the Employee under the following headings:
 - (a) **Loss of Protection from Unfair Dismissal:**
The sum of **\$96,000.00**, being the equivalent of 12 months' emoluments at the rate of \$8,000.00 per month.
 - (b) **Immediate Loss of Earnings:**
 - (i) The sum of **\$40,000.00**, being the equivalent of 5 months' emoluments for the 5-month period immediately after dismissal.

(ii) The sum of **\$10,500.00**, being the equivalent of the difference between his previous emoluments and his subsequent salary for the ensuing 3 months.

(c) Loss Due to Manner of Dismissal:

The sum of **\$2,500.00**, on account of the likely effect of the dismissal on potential and subsequent employers.

(d) Exemplary Damages:

The sum of **\$20,000.00**, by reason of the dismissal being harsh, oppressive and contrary to the principles of good industrial relations practices.

(e) Loss of Fringe Benefits:

The sum of **\$5,000.00** on account of the loss of the Group insurance coverage.

2. The Employer do pay costs in the sum of **\$2,500. 00**

3. The Employer shall pay the aggregate sum of **\$176,500.00**, inclusive of costs, to the Employee no later than November 30, 2023.

BY THE COURT

A handwritten signature in black ink, appearing to read "Danaide", written over a dotted line.

Registrar