



IN THE INDUSTRIAL COURT OF  
ANTIGUA AND BARBUDA

REFERENCE NO: C/UD/37 of 2020  
BETWEEN:

GATESWORTH JAMES

Employee

AND

ANTIGUA AND BARBUDA AIRPORT AUTHORITY

Employee

FINAL ORDER AFTER EX PARTE TRIAL

Before: The Hon. Charlesworth O.D Brown President

Dated the 11<sup>th</sup> day of September 2023

Entered the 15<sup>th</sup> day of September 2023

**Appearances:**

Mr. Samuel James and Mr. Simon Leonard of Antigua and Barbuda Free Trade Union  
for the Employee

Mr. Hugh Marshall Jr and Mr. Jonathan Marshall of Marshall & Co. Attorneys-at-Law  
for the Employer

**THIS REFERNECE** having come up for an ex parte trial;

**THE COURT** granting permission to Counsel to participate in the proceedings on  
behalf of the Employer;

**UPON CONSIDERING** the oral and documentary evidence of the Employee;

**AND UPON HEARING** the oral submissions of the parties.

**HAVING REGARD** to the following findings of fact:

- a. The Employee's engagement as Chairman of the Employer's Board of Directors, which commenced on or about April 2009, was expanded to include the performance of the duties of the CEO with effect from December 18, 2009 until such time as the CEO was appointed.

- b. By virtue of their course of conduct with each other from December 18, 2009, up to July 31, 2012, separate and apart from the Employee's position as Chairman, the parties established an employer/employee relationship in respect of the Employee's performance of the duties of the CEO in consideration of which he was paid the sum of \$8,000.00 per month.
- c. Immediately after the Employee's tenure as Chairman ended on April 30, 2012, the Employee was offered and accepted the position of Acting CEO. Thus, notwithstanding the change in nomenclature, the employer/employee relationship in respect of the Employee's performance of the subsisting substantive duties of CEO was affirmed by the parties.
- d. With effect from July 31, 2012, the Employee's employment in the position Acting CEO was terminated. He was thereby relieved of the performance of the duties of the CEO, the very foundation of the terminated employment relationship.
- e. Immediately after his dismissal, the Employee was offered and accepted fresh employment as Liaison Officer for a fixed term commencing on August 1, 2012 until October 01, 2012, when the employment relationship would come to an end by the effluxion of time. New responsibilities and duties were assigned to the Employee and he was required to report to the CEO upon his assumption of office on October 1, 2021.

**IT IS HEREBY DECLARED:**

- 1. The Employee was employed by the Employer for a fixed term commencing on December 18, 2009, until the pending date of appointment of the CEO;
- 2. The Employee was unfairly dismissed on July 31, 2012, when he was relieved of his duties as Acting CEO before the appointment of the CEO;
- 3. Subject to his duty to mitigate his loss, the Employee is entitled to compensation for his unfair dismissal, including his loss equivalent to what he would have earned during the unexpired portion of the fixed term up to October 1, 2012 when the CEO was appointed and the employment relationship would have come to an end by the effluxion of time.
- 4. The Employee's acceptance of the offer of new employment at the previous rate of pay for the period August 01, 2012, until October 1, 2012 is deemed to be his complete mitigation of the immediate loss he would have otherwise suffered because of his unfair dismissal.

**AND IT IS HEREBY ORDERED:**

1. The Employer do pay compensation to the Employee under the following headings:
  - (a) Pay in lieu of Notice equivalent to his monthly salary in the sum of \$8,000.00
  - (b) Loss of Protection from Unfair Dismissal, at the rate of one month's pay for each of his 2.6 years of employment, in the sum of \$20,800.00
2. The Employer shall pay the total sum of **\$28,800.00** to the Employee, no later than September 30, 2023.

**BY THE COURT**

  
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Registrar

