IN THE MATTER OF THE HUMAN RIGHTS ACT 1981

IN THE MATTER OF THE BERMUDA HUMAN RIGHTS TRIBUNAL

BETWEEN:

NNEKA POWELL	Complainant
-v-	
WE CARE HOME SERVICES	First Respondent
and	
PENNY-LYNN PAYNTER	Second Respondents

JUDGEMENT

Tribunal: Kim Simmons, Chair
Kai Musson and Tawana Tannock, Members

Counsel: Ms. Victoria Pearman for the Complainant
Mr. Braxton Philip for the Respondents

Certified a true and correct copy of the original

JANICE GUTTERIDGE, Notary Public
for and in the Islands of Bermuda
Hamilton, Bermuda.
My Commission is unlimited as to time.

Date: 6 JUNE 2014

THE CLAIM

The claim made by the Complainant to be considered by the empaneled Tribunal was whether the Complainant was discriminated against in contravention of Sections (2)(2)(a)(v) and 6(1)(b) of the Human Rights Act 1981 as amended ("Act"). Both sections read as follows:

Section 2(2)(a)(v)

(2) For the purposes of this Act a person shall not be deemed to discriminate against another person –

(a) if he treats him less favourably than he treats or would treat other persons generally or refuses or deliberately omits to enter into any contract or arrangement with him on the like terms and the like circumstances as in the case of other persons generally or deliberately treats him differently to other persons because-

(v)she has or is likely to have a child whether born in lawful wedlock or not

Section 6(1)(b)

Subject to subsection (6) no person shall discriminate against any person in any of the ways set out in section 2(2) by-

(b)dismissing, demoting or refusing to employ or continue to employ any person

PRE-HEARING MATTERS

Representation of Respondent

Mr. Braxton Phillip, an advisor of the First and Second Respondent (hereinafter referred to as "Respondent") who has a legal degree but is not a practicing member of the Bermuda Bar Association, indicated that the Respondent had tried to secure legal representation prior to the Hearing date but with no success. Mr. Phillip had spoken to legal counsel for the Complainant, Ms Victoria Pearman, and Ms Pearman and her client were ok with Mr. Phillip representing the Respondent as a "McKenzie Friend". The Chair asked her whether she was happy to proceed with Mr. Phillip assuming this role as her McKenzie Friend. The Respondent responded in the affirmative.

For purposes of this judgement any references to the Respondent's legal counsel shall mean Mr. Phillip, notwithstanding he is not a practicing member of the Bermuda Bar Association

Exchange of Documents

It was discovered by the Chair that due to no fault of the HRC office and staff, for various reasons neither party's legal counsel had in their possession the bundle of documents submitted for evidence by the other party. This was addressed prior to the Hearing by the Chair who arranged for copies of the documents to be made an allowed time for each party to review them with their respective legal counsel.

FACTS

Terms of Employment

The Second Respondent is the owner and sole proprietor of a business that provides residential care services to the elderly and trades under the name "We Care Home Services". The business does not have limited liability and thus the First Respondent is personally responsible for all liabilities of the business without limit.

In June 2006 the Complainant was hired by the Respondent. There was no written contract of employment. From the combined testimonies of the Complainant and the Respondent, and the statement of work submitted by the Complainant, the terms of her employment were as follows:

- To provide personal care to elderly clients at their residence. Such care included attending to their personal hygiene and feeding them, in addition to some "extras" such as cooking, housekeeping and "anything (else) that was required";
- Compensation was at a rate of $17/ hour and paid on a weekly basis.

The Complainant's statement of wages as prepared and provided by the Complainant, indicated that she started out keeping the hours of a part-time employee, but by 2009 was working the hours of a full time employee.

The oral evidence of both the Complainant and Respondent confirmed that the Complainant's employment with the Respondent was her only source of employment. The hours worked were on demand and when the Complainant first started working for the Respondent it was on a part-time basis but very shortly thereafter she was working closer to 40 hours/week. The Respondent confirmed that notwithstanding she usually hired staff on a "part time" basis, a handful of her employees were on the HIP insurance plan and the Complainant was one such employee. The Complainant would often request additional hours to work and when possible the Respondent would accommodate this request. The Complainant loved her job and enjoyed caring for the elderly. This was confirmed by the Respondent in a letter dated 24 September 2007 which indicated that the Complainant was a good employee and was "one of my trusting and reliable employees and our clients love her". The Complainant was the Respondent's longest serving employee, whereas other persons in the Respondent's employ were described as working "off and on".

According to the Respondent's oral evidence, she ran We Care Home Services inter alia on the following basis:

- For the most part, she hired staff on a part-time basis;
- She did not offer maternity leave;
- She did not require nor did she ever review a medical certificate when an employee was sick and unable to attend work.

Pregnancy

The Complainant became pregnant twice while employed by the Respondent – once in 2007 ("first pregnancy") and a second time in 2009 ("second pregnancy"). Even though it is the second pregnancy that is the subject matter of this claim under the Human Rights Act, the facts surrounding the first pregnancy are mentioned briefly below as a point of reference.

During the first pregnancy the Respondent reduced the Complainant's hours and in an effort to assist her financially the Respondent:

- at the Complainant's request, drafted a letter intended to be presented by the Complainant to the relevant Government agency to obtain financial assistance; and
- subsidized her pay by paying a minimum of $230/week even though the Complainant was not working the equivalent hours

The letter dated 24 September is addressed "TO WHOM IT MAY CONCERN" and reads as follows:

"This letter is to inform you that Miss Nneka Powell has been employed at We Care Home Service since June 2006. Miss Powell works 4 to 5 days week hours vary depending on the client. Her wages vary from $230.00 a week up to $550.00 according to the hours she has worked.

Due to her currant health condition the Dr. has requested that I cut her hours. She now only works 1hr per day 5 days a week and that is only checking in to make sure a client is ok for me. She only receives $124.00.

I personally am trying to keep some money in her pocket, by giving her at least $230/week to assist her as she is one of my trusting and reliable employees and our clients love her."

The Complainant was successful in obtaining financial assistance from the Bermuda Government.

During the second pregnancy and prior to the events in April 2010 which are described below, the Respondent reduced the working hours of the Complainant. Her reasons were that "during the second and third term, her physical condition and stamina waned dramatically thereby affecting her ability to perform her work duties and attendance at work". The Complainant denies that this was the case and claims that she was capable of carrying out her duties notwithstanding her pregnancy. In April 2010 the Complainant developed an abscess on her lower abdomen. Once the Complainant made the Respondent aware of this, the Respondent encouraged the Complainant to seek medical attention since she was concerned about maintaining good hygiene when caring for elderly clients.

On or before 24 April 2010 the Complainant was treated at the King Edward VII Memorial Hospital ("KEMH") emergency department. The hospital Work Release form dated 24 April 2010 indicated that "The employee will be able to return to work on 26 April 2010." It also stated that the employee had "no restrictions", with an additional note stating in bold "If the symptoms continue and the employee is unable to perform the duties of their job by this date; please advise the employee to follow up with the referral physician for further evaluation."

In the discharge instructions from KEMH dated 25 April 2010 Dr. George Shaw instructed the Complainant to have the dressing changed on the following day, being 26 April 2010.

At some point after her visit to KEMH emergency and before her visit to her obstetrician Dr. Wendy Woods on 29 April 2010 (which is described below), the Complainant and the Respondent had a discussion about the Complainant's medical condition. The exact time of the conversation and what was actually said is not clear, but both parties are in agreement that it was decided that a letter would be prepared by the Respondent to be presented to the relevant Government agency to assist the Complainant in obtaining financial assistance.

The parties were also in agreement that it was known to the Complainant that the Respondent did not grant maternity leave to her employees and that any request by the Complainant for maternity leave would be denied. The letter drafted by the Respondent was dated 4th May 2010 and stated the following:

"As of April 28, 2010 Miss Nneka Powell will cease to be an employee in the service of We Care Home Service, consequent on the advice of her medical Doctor.

Reluctantly, We Care Home Service will no longer be responsible for Miss Powell's medical insurance, insurance contributions or otherwise as of 30 April 2010.

A source of the Bermuda Government Health Insurance Plan has informed the principals of We Care Home Service that We Care Home Service is absolved from paying any further insurance contributions for Miss Powell. And that Miss Powell insurance will be covered for a few months thereafter."

Notwithstanding that the letter was dated the 4 May 2010, the letter was given to the Complainant on or about 28 April 2010. The Complainant states that she took it to someone to help her understand what the letter said. On 29 April 2010 the Complainant went to see her doctor, Dr. Wendy Woods. In a letter from Dr. Woods dated 30 June 2010 Dr. Woods states:

"I write in reference to [Nneka Powell] an obstetrical patient under my care. Ms. Powell delivered by c-section on 9th June 2010.

Ms. Powell's pregnancy was high risk secondary to insulin dependent diabetes mellitus. At her antenatal visit on April 29, 2010 I noted that Nneka had a "boil" on her lower abdomen that was draining purulent material, and there was evidence of cellulitis. With her history of diabetes she was at increased risk for developing serious infection. I advised Nneka that I would be sending her directly to the ER for further assessment because she needed intravenous antibiotics and possible admission.

My secretary subsequently contacted Nneka's employer Penny-Lynn Paynter at We Care Home Service to advise that Nneka would not be able to come in to work that day ...[sentence omitted]. Nneka subsequently informed me that she was "fired" and indeed we received a letter from Ms. Paynter that"Miss Nneka Powell will cease to be an employee...consequent on the advice of her medical doctor."...To clarify, we DID NOT say that Nneka had to cease working, but that she would not be in to work that day..."

Any reference to "letter dated 4 May 2010" in this Judgement is a reference to this letter.

After showing the letter dated 4 May 2010 to Dr. Woods, the Complainant realized that the letter stated that she was no longer an employee of We Care Home Services. The Complainant claims she then contacted the Respondent to clarify that the medical advice she received was not that she could not

work at all, but that she would be ineligible to work on 29 April 2010. The Complainant also claims, and the Respondent confirms, that she presented the letter dated 29 April 2010 from Dr. Woods to the Respondent but to no avail as the Respondent refused to read or accept it.

The Complainant testified that under medical advice from Dr. Woods she went to the emergency room at KEMH for treatment of her infection and for a week she received intravenous treatment at KEMH. Consequently, she took this week off work and claims that after a week she was fine and capable of resuming employment.

The Respondent states that as a matter of policy she does not accept medical certificates from her employees when they cannot work. The communications to the Respondent from (i) the Complainant and (ii) from the office of Dr. Woods were confusing for the Respondent. The Respondent claims that she was under the impression the Complainant had received medical advice that indicated she could no longer work and further claims that the content of the letter she drafted which terminates her employment as of 28 April 2010 was what was requested by the Complainant, and that she was merely complying with this request in an effort to help the Complainant in her efforts to obtain financial assistance.

Of significance is that the Respondent also told the Complainant that "she could come back to work after she had the baby".

The Complainant indicated that she was surprised once she realized the letter essentially terminated her employment and indicated that she had no desire to terminate her own employment, but expected the letter to indicate she would be unable to work for a period of time. It was the Complainant's desire to continue working at for the Respondent's business after her pregnancy.

Consistent with what is stated in the letter dated 4 May 2010, the Respondent claims she was concerned about insurance coverage of the Complainant after her termination and made enquiries at the relevant Government department, prior to delivering the letter, to ensure that the Complainant was eligible to receive insurance coverage post termination of employment.

The Respondent also provided documentary evidence to show that as a gift she paid a debt on behalf of the Complainant to the Bermuda Debt Collection Agency in the amount of $1373.35 on 9 July 2010 in connection with an unpaid hospital bill.

In November 2010 the Complainant filed her complaint with the Human Rights Commission

COMPLAINANT'S CASE

It is the Complainant's position that with respect to her second pregnancy she never received medical advice which suggested she no longer work at We Care Home Services, and that she never asked her employer to write a letter to assist her in obtaining financial assistance which stated that she no longer worked at We Care Home Services. Instead, the medical advice that she obtained suggested that she not work for a period of a week or so. The reason she asked her employer for the letter was to obtain financial assistance with this pregnancy like she did when she was pregnant with her first child. Accordingly, the reason she needed this letter was because the Respondent had stated previously that she would not give any maternity leave.

Admittedly when she first received the letter dated 4 May 2010 she did not read it at it right away and it was first brought to her attention when she showed it to her doctor and others that the letter stated that she was fired. This came as a surprise, and according to the Complainant she called the Respondent to indicate that her doctor's advice was to take off a week, not to cease working. This same message was delivered to the Respondent by Dr. Woods' office. She attempted to provide the Respondent with a medical certificate from Dr. Woods to show that she need not be of fwork for the remainder of her pregnancy, but to no avail.

It is the Complainant's position that the Respondent was not justified in reducing her hours during this second pregnancy and that other than needing time to recover from the abscessed cyst she was able to continue working. The Respondent is not a trained medical doctor and she made a medical judgement about the Complainant's ability to work even when presented with medical evidence to the contrary.

The Complainant claims the Respondent was experiencing financial difficulty and saw this as an opportunity to terminate her and no longer have to pay her portion of the Complainant's insurance. The idea that the Complainant had asked the Respondent to be dishonest, and possibly fraudulently state in a letter to be presented to financial assistance that she was not able to work on the advice of her doctor, was absurd since that would mean she was essentially terminating herself. Throughout her pregnancy she was prepared to work when should could, and her actions in no way supported a desire to be terminated. Instead, the Respondent was looking to avoid the responsibilities of having an employee that was pregnant and about to go on maternity leave as this would be expensive for the Respondent.

RESPONDENT'S CASE

It is the Respondent's claim that the Complainant has not been truthful about what transpired and the circumstances under which the Respondent drafted the letter dated 4 May 2010. The letter dated 4 May 2010 was written on behalf of the Complainant at her request and the Respondent was merely assisting her in her attempt to obtain financial assistance. It is the Respondent's position that because the Complainant needed a reference to obtain financial assistance, she drafted the letter dated 4 May 2010 in the manner that she did, as instructed by the Complainant. The Respondent stated that at all times she has had the Complainant's best interest at heart because she is was a valued and trusted employee.

Prior to delivering the letter dated 4 May 2010 to the Complainant, the Respondent checked to ensure all her HIP insurance payments were up to date and that the Complainant would be eligible for HIP insurance after her termination date of 28 April 2010. The Respondent recognised that she was not in a position to pay her $230 a week like she did for her first pregnancy because of her financial situation. Therefore, out of her concern for the Complainant, the Respondent made enquiries to ensure the Complainant would continue to have insurance coverage for the remainder of her pregnancy, paid off a debt the Complainant owed to the Bermuda Debt Collection as a gift with no repayment obligation.

Further, the Respondent maintains that the Complainant's initial request to the Respondent was to draft a letter which stated that on the recommendation of her doctor she could no longer work at We Care Services, full stop. There was no qualification to this. It was only once the Complainant showed the letter to Dr. Woods and others that she was advised that she may have a claim for wrongful dismissal, and then consequently changed her story to be consistent with this claim in order to pursue a legal claim

against the Respondent. It became very confusing and upsetting to the Respondent once she started to get a different story from the Complainant and her doctor. It is the Respondent's position that there was no need to change her letter once drafted, notwithstanding the revised advice from Dr. Woods that she only needed to be off work for a short period of about a week, because that was what was initially discussed and agreed and the Respondent was merely complying with this initial request.

It is the Respondent's position that the burden of proof has not been met by the Complainant and that the facts do not support a finding of discrimination pursuant to Sections 2(2)(a)(v) and 6(1)(b) of the Act.

EVIDENCE COMMENTARY

The letter dated 4 May 2010 was drafted by the Respondent as a result of a conversation with the Complainant about submitting an application for financial assistance. This letter is very different to the one dated 24 Sept 2007 which was done for the same purpose during the Complainant's first pregnancy. By the Respondent's own admission she was experiencing financial difficulty that did not allow her to pay $230 per week to the Complainant like she did in the first pregnancy and as referenced in the letter dated 24 September 2007.

It is apparent that there was an initial misunderstanding between the parties as to what medical advice the Complainant received, and what the Complainant had requested of the Respondent. The Tribunal takes the view that both parties stand by their positions in relation to the discussions leading to the drafting of the letter dated 4 May 2012, because they believe their respective recollections are accurate. The Complainant's recollection is that she did not indicate that the medical advice she received was that she could no longer work, but that she needed time off work for a short period. The Respondent's recollection is that on the advice of her doctor the Complainant could no longer work at We Care Home Services and the Complainant had specifically requested that a letter be drafted to that effect.

However, once the Respondent became aware that the Complainant's medical advice did not support her termination due to being unable to work, both through conversations with the Complainant and a call from Dr. Woods' office, the Respondent did not take any action to either amend the letter or to re-employ the Complainant. What is of significance is that when the situation was clarified for the Respondent, she maintained that the Complainant had been terminated based upon her statement to the Respondent that this is the medical advice she had received and what she wanted, despite being made aware by Dr. Wood's office (on the request of the Complainant), that such a recommendation had not been made. Further, when the Respondent was asked the direct question as to whether the Complainant asked the Respondent to terminate her employment, a clear response was not forthcoming from the Respondent.

The question then becomes, why did the Respondent not change her position? The Tribunal is of the view that she did not do so because the situation was to her advantage. The Respondent acknowledged that her business was struggling financially and therefore she could not afford to pay the Complainant anything when unable to work due to her pregnancy. Therefore when confronted with the opportunity to maintain the Complainant's termination notwithstanding the misunderstanding between the two parties, she did so. By terminating the Complainant the Respondent was circumventing the Complainant's eligibility for maternity leave, and as such, wrongfully terminated the Complainant due to the fact that she was with child.

The following facts, when taken in their entirety support a conclusion that (i) the Complainant did not request a letter terminating her employment, (ii) the Complainant never informed the Respondent that she was unable to work for the duration of her pregnancy, (iii) the Respondent seized an opportunity to terminate the Complainant's employment because she could not afford to employ a pregnant worker who would be entitled to maternity leave and (iv) the Respondent wrongfully terminated the Complainant because she was with child. Taken together, this leads to a finding by the Tribunal of discrimination under the Human Rights Act (s) 2(2)(a)(v) and 6 (1)(b).

1. The Tribunal is mindful that it does not have jurisdiction to hear any complaints under the Employment Act 2000 as amended ("Employment Act"), however of relevance to these proceedings is the law regarding the entitlement to Maternity leave, under the Employment Act (s) 16(1) which states: . .

Maternity Leave

16 (1) An Employee shall be entitled to maternity leave if she:-

(a) provides her employer with a certificate of a registered medical practitioner certifying that she is pregnant and specifying the estimated date of birth; and

(b) submits to the employer an application for maternity leave at least four weeks before the day she specifies as the day on which she intends to commence her leave.

(2) The period of maternity leave shall be:-

(a) in relation to an employee who has completed at least one year of continuous employment or will have done so by the expected date of delivery, a period of twelve weeks, consisting of eight weeks paid leave and four weeks unpaid leave;

(b) in any other case, a period of right weeks unpaid leave;

(3) An employee who has taken a period of maternity leave shall notify her employer at least two weeks in advance of the date on which she intends to resume work, and she shall be entiled to resume work-

(a) in the position she occupied at the time leave commenced; or

(b) where that position no longer exists, in a comparable position with not less than the same wages and benefits she was receiving before maternity leave and with no loss of seniority.

(4) An employee who fails to notify her employer in accordance with subsection (3) shall be taken to have terminated her employment.

The Respondent did not provide maternity leave to any of her employees. Although this is a policy that would have been applied consistently to any female employee with child, or male employee whose

spouse is with child, it is not only poor business practice it is unlawful. By having such a policy it made it close to impossible for the Complainant to satisfy the provisions of the Employment Act that relate to entitlement for maternity leave since even if a medical certificate was provided, any actual request would have been denied. Hence the need for the Complainant to request the Respondent's help to obtain financial assistance.

2. There was a financial benefit to terminating the Complainant's employment. The Respondent testified that at that time she had three clients. She had already started to cut back the Complainant's hours and testified that her business was under some financial constraints.

3. It is the Panel's view that the inquiries the Respondent made about the Complainant's HIP coverage were not only out of concern for the Complainant; it was an attempt to cover herself in the event she were to terminate the Complainant's employment. Further, the Tribunal takes the view that once the Respondent knew she was up to date with her payments and that the Complainant would be eligible for HIP for a few months after termination, she kept to the termination date of 28 August 2010 with additional peace of mind.

4. The Respondent told the Complainant that she could come back to work after she had the baby, leaving both parties with the view that after the pregnancy the Complainant could return to work. The Complainant was of this view because it was consistent with her medical advice. This seemed a strange course of action from the Respondent given she had terminated the Complainant and it is the Tribunal's view that the Respondent took it upon herself to terminate the Complainant for financial reasons.

5. The Complainant would not have dishonestly represented the medical advice she received in an effort to terminate her own employment and "trap" the Respondent into a wrongful dismissal claim.

FINDING OF DISCRIMINATION

It is the Tribunal's view that on the evidence presented that there was a misunderstanding between the parties with regard to the letter date 4 May 2010 but given all the evidence as a whole it was not possible to simply conclude that this whole matter was merely a misunderstanding. Taken as a whole, the evidence supports a finding that on a balance of probabilities, the Respondent did discriminate against the Complainant in contravention of Sections 2(2)(iv) and 6 of the Human Rights act and is therefore liable.

DAMAGES

The Complainant requested full pay for a period of 14 months which represents the time from her dismissal on 28 April 2010 to the date that she started working with her new employer on 1 June 2011. However it was noted by the Tribunal that no evidence was provided to support the start date or to what extent work was sought after the birth of the Complainant's child on 9 June 2010. In addition the Complainant requested that the hourly rate to be applied be increased from $17/hour to $25/hour and that the Complainant be awarded costs.

With respect to legal authority, the Tribunal were asked to consider Sections 15 and 16 of the Employment Act, Section 16 has already been provided in the judgement and Section 15 of the Employment Act states as follows:

Ante-natal care

15 (1) An employee who is pregnant and who has, on the advice of a registered medical practitioner, made an appointment to receive ante-natal care, is entitled to take time off during her working hours to attend the appointment.

(2) An employee is not entitled to take time off under this section unless, where her employer so requests, she produces a certificate from a registered medical practitioner confirming that she is pregnant, and an appointment card or some document showing that the appointment has been made.

(3) An employee who has completed at least one year of continuous employment is entitled to be paid at her normal hourly wage for time taken off under this section.

However no legal authority was presented for the Tribunal to consider with respect to the increase in hourly wage. It was instead argued that during the course of the Complainant's 5 or so years of employment with the Respondent she received an hourly wage increase of two dollars – from $15/hour to $17/hour and as such is "normal practice" for her to have received an increase due to cost of living and other expenses. The justification for $25/hour was further stated to be the going rate in accordance with the Bermuda Hospitals Board, but no other supporting evidence was provided for this claim. With respect to costs it was argued that costs usually follow the decision.

The Respondent requested that the Tribunal take into consideration the obligation of the Complainant to mitigate her loss and that the 14 month period representing the last day she was employed with the Respondent to the time she started her new job did not demonstrate that she was actively seeking employment.

In the absence of any evidence to support both the actual start date of employment after the birth of the Complainant's child, or what attempts were made to seek employment in the 14 month period from last day of employment with the Respondent to resuming employment with new employer, or any legal authority to support the request for an increase in hourly wage, the award for damages shall be as follows:

(a) hourly rate of $17/hour shall be applied, consistent with s.15 (3) of the Employment Act to which the Tribunal took as persuasive, given the complaint is under the Human Rights Act

(b) maternity leave will be granted for a period of 8 weeks and 40 hours per week , as guided by s.15 of the Employment Act , minus 5% payroll deduction which amounts to $5,168

(c) one month pay will also be granted for the month of May 2010 which represents the fact that had the Complainant not been dismissed on 28 April 2010 the Complainant would likely have been working with the Respondent, which is calculated in same manner is in (b) above and amounts to $2,584;

Total damages awarded is $7,752

- (d) costs to the Complainant to be taxed if not agreed

RECOMMENDATIONS

Throughout the Hearing it became evident to the Tribunal that several of the Respondent's business practices are either not sound or may be unlawful. It is recommended that the Respondent consider obtaining legal advice from a practicing attorney that specialises in employment law and adopt the following practices:

- determine what is the lawful meaning of "part-time" employment and what rights a part-time employee does and does not have under the laws of Bermuda
- have statements of employment or written contracts with all her employees so that all concerned are clear as to what is expected of them
- put in place an employee manual that expressly outlines what policies and procedures are required to be followed by all employees and ensure that employees are aware of the same
- obtain an understanding as to what benefits (insurance, maternity leave, vacation, sick leave etc.) her employees are lawfully entitled to and put these in the aforementioned employment manual

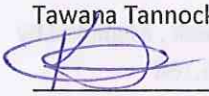
The policy that the Respondent has adopted of not providing maternity leave or sick leave, of not accepting medical certificates and not having a clear understanding of what lawfully constitutes full and part time employment is of great concern to this Tribunal and such practices and misunderstandings must not continue, as they are likely unlawful and definitely not good business practices.

Date submitted: 17 April 2014

Signatures of Tribunal Members:

Kim Simmons, Chair

Tawana Tannock



Kai Musson

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Hamilton HM 11
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