

INDUSTRIAL DISPUTES TRIBUNAL

Dispute No.: IDT 2/2020

SETTLEMENT OF DISPUTE

BETWEEN

B & E CATERERS LIMITED

AND

MR. FITZROY MILLER

AWARD

I.D.T. DIVISION

MR. CHARLES JONES, CD, JP - CHAIRMAN

MR. ERROL BECKFORD - MEMBER

MR. FREDRICK EVANS - MEMBER

FEBRUARY 2, 2021

INDUSTRIAL DISPUTES TRIBUNAL

AWARD

IN RESPECT OF

AN INDUSTRIAL DISPUTE

BETWEEN

B & E CATERERS LIMITED
(THE COMPANY)

AND

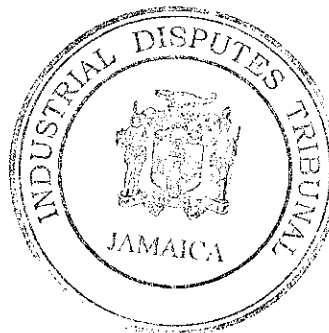
MR. FITZROY MILLER
(THE AGGRIEVED)

REFERENCE:

By letter dated May 4, 2020, the Honourable Minister of Labour and Social Security pursuant to Section 11(1) of the Labour Relations and Industrial Disputes Act (hereinafter called "the Act"), referred to the Industrial Disputes Tribunal for settlement in accordance with the following Terms of Reference, the industrial dispute described therein:-

The Terms of Reference were as follows:

"To determine and settle the dispute between B & E Caterers Limited on the one hand and Mr Fitzroy Miller on the other hand over the termination of his employment."



26

DIVISION:

The division of the Tribunal which was selected in accordance with Section 8(2) (c) of the Act comprised:

Mr. Rudyard Spencer, C.D.	-	Chairman
Mr. Errol Beckford	-	Member, Section 8(2) (c) (ii)
Mr. Fredrick Evans	-	Member, Section 8(2) (c) (iii)

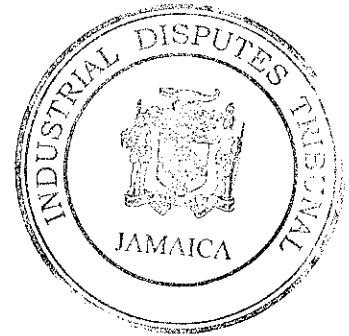
REPRESENTATIVES OF PARTIES:

The **Company** was represented by:

Ms. Arielle G. Brown	-	Attorney-at-Law
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The **Aggrieved** was represented by:

Ms Caroline Hay, Q.C.	-	Attorney-at-Law
Ms Tereece Campbell	-	Attorney-at-Law



SUBMISSIONS AND SITTINGS:

A Brief was submitted by the Aggrieved and dates were scheduled for sittings to be held on August 3, 2020 and August 4, 2020.

However, by letter dated July 27, 2020, the Company's Attorney informed the Tribunal of Mr. Miller's recent passing, and requested the dates of the sittings to be vacated and the matter withdrawn, due to the absence of a Grant of Probate or Letters of Administration, thereby leaving a vacuum with respect to legal representation for his estate..

The requests were declined and the Tribunal advised the Company to attend as previously scheduled and put their concerns on record.

At the sitting on August 3, 2020 the Attorneys for the Aggrieved disclosed that talks at the local level had progressed well and that the parties were near to an agreement, when news came of Mr. Miller's death and that the Company had retracted from their position upon learning that Mr. Miller had died intestate leaving a surviving child. The Company's Attorney concurred with the position of the Attorneys for the Aggrieved.

Attorneys for the Aggrieved further stated that their client's action prior to his death, to appoint Counsel and their subsequent participation in; local level talks, conciliation meetings at the Ministry of Labour and Social Security and the referral of the dispute to the Industrial Disputes Tribunal, had established the requisite legal basis to continue the hearing of this matter.

The Tribunal after examining the facts agreed that it was reasonable to deduce that Mr. Miller had prior to his death decided his representative of choice, thereby concurring with the position of the Attorneys for the Aggrieved to proceed to hear the matter. At this point the parties requested time to review and reconcile their positions and to consult with the Administrator General's Department. In response the Tribunal granted the parties three (3) months to engage the Administrator General and November 2, 2020 was set for continuation of the hearing. The parties were encouraged by the Tribunal to use the time and their best efforts to settle the matter in the interregnum.

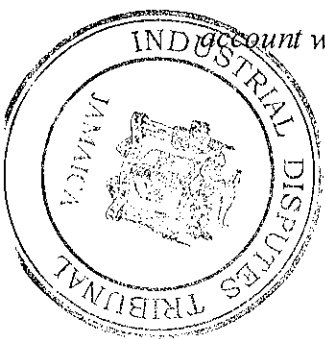
Following this sitting, Mr. Rudyard Spencer, C.D. became ill and was replaced by Mr. Charles Jones, C.D., J.P. as Chairman.

At the sitting on November 2, 2020, the parties informed the Tribunal that they had reached a settlement but were seeking the advice of the Administrator General before signing an agreement due to the fact that the Aggrieved had a surviving child.

REPORT TO THE TRIBUNAL:

By a letter dated November 9, 2020, signed jointly by representatives of both parties to the dispute, the Tribunal was informed that an agreement was reached to settle in the amount of Eight Hundred Thousand Dollars (\$800,000.00) as full and final settlement of this matter. The agreement also stated –

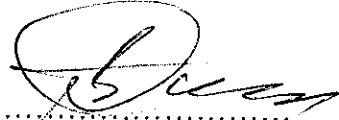
"Given that Mr Miller is now deceased, the said funds will be paid into an escrow account to be released upon the execution of a Release and Discharge by the Administrator General. The escrow account will be created in the joint names of the chambers involved herein".



AWARD:

The parties having arrived at a final settlement as manifested in the attached copy of the Letter of Agreement dated November 9, 2020 is the agreement that constitutes the Tribunal's Award.

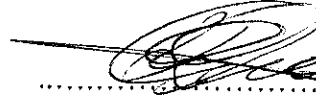
DATED THIS 2nd DAY OF FEBRUARY 2021.



.....
Mr. Charles Jones, C.D., JP
Chairman

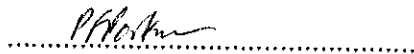


.....
Mr. Errol Beckford
Member



.....
Mr. Fredrick Evans
Member

Witness:



.....
Phillippa Parkinson (Ms.)
Secretary to the Division





CAROLINE P. HAY
ATTORNEYS-AT-LAW

PARTNERS

Caroline P. Hay, QC, FCI Arb*
Kimberley P. McDowell B.Sc, LL.B (Hons.)

ASSOCIATE

Tereece K. Campbell B.Sc, LL.B (Hons.)

November 9, 2020

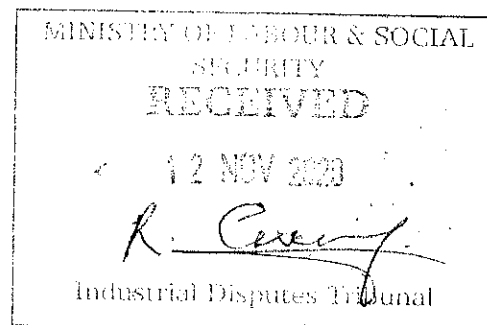
Industrial Disputes Tribunal
4 Ellesmore Road
Kingston 10

Attention: Mrs. Kennedy, Director

Dear Sirs,

Re: Reference No. IDT2/2020

Dispute between B & E Caterers Limited and Mr. Fitzroy Miller



The hearing of the 2nd *instant* refers.

Please be advised that this matter has been settled successfully.

The aggrieved party **Mr. Fitzroy Miller**, being represented by Caroline P. Hay Attorneys-at-Law and **B & E Caterers Limited** ("the Company"), being represented by Earle & Wilson Attorneys-at-Law hereby consent to the payment of the sum of **Eight Hundred Thousand Dollars (\$800,000.00)** by the Company in full and final settlement of this matter.

Given that Mr. Miller is now deceased, the said funds will be paid into an escrow account to be released upon the execution of a Release and Discharge by the Administrator General. The escrow account will be created in the joint names of the chambers involved herein.

Dated the 11th day of November 2020

Caroline P. Hay Attorneys-at-Law

Co-signed by: Earle & Wilson Attorneys-at-Law

*Admitted to practice in Jamaica, W.I. and Guyana, S. A.