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INDUSTRIAL DISPUTES TRIBUNAL

Dispute No: IDT 16/2022

INTERPRETATION OF AWARD

BETWEEN

**DESNOES & GEDDES LIMITED
(TRADING AS RED STRIPE)**

AND

TANNISHA MIRANDA

AWARD

I.D.T. DIVISION

MR. DONALD ROBERTS, CD., JP.	-	CHAIRMAN
MRS. JACQUELINE IRONS, JP	-	MEMBER
DR. DENESE MORRISON, JP	-	MEMBER

OCTOBER 25, 2024

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IDT 16/2022

INDUSTRIAL DISPUTES TRIBUNAL

INTERPRETATION OF AWARD

IN RESPECT OF

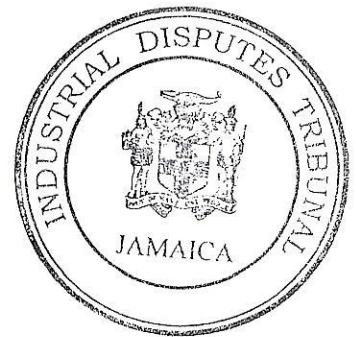
DESNOES & GEDDES LIMITED
(TRADING AS RED STRIPE)

(THE COMPANY)

AND

MS. TANNISHA MIRANDA

(AGGRIEVED WORKER)



REFERENCE

By letter dated March 16, 2022, the Hon. Minister of Labour and Social Security, pursuant to Section 11 (1) of the Labour Relations and Industrial Disputes Act, 1975 ("the Act") referred to the Industrial Disputes Tribunal ("the Tribunal") for settlement, the disputes between Red Stripe (Part of Heineken Company) and Ms. Tannisha Miranda with the following Terms of Reference:-

"To determine and settle the dispute between Red Stripe (Part of the Heineken Company) on the one hand, and Ms. Tannisha Miranda on the other hand, over the termination of her employment".

By way of a letter dated April 25, 2023, the Tribunal was advised of the amended Terms of Reference as set out below:

"To determine and settle the dispute between Desnoes & Geddes Limited (trading as Red Stripe) on the one hand and Ms. Tannisha Miranda on the other hand, over the termination of her employment".

DIVISION

The Division of the Tribunal selected in accordance with Section 8(2)(c) of the Act to deal with the industrial dispute comprised:

Mr. Donald Roberts, CD, JP	-	Chairman
Mrs. Jacqueline Irons, JP	-	Member, Section 8(2)(c)(ii)
Dr. Denese Morrison, JP	-	Member, Section 8(2)(c)(iii)

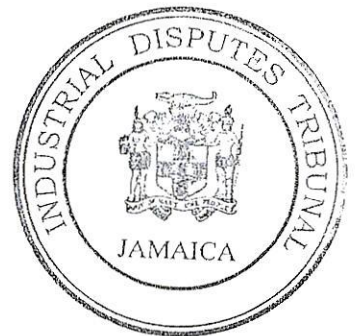
REPRESENTATIVES OF THE PARTIES

The **Company** was represented by:

Mr. Gavin Goffe	-	Attorney-at-law
Ms. Nicole Taylor	-	Attorney-at-law

The **Aggrieved** was represented by:

Mr. John Junor, CD, JP	-	Attorney-at-law
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In attendance:

Ms. Tannisha Miranda	-	Aggrieved Worker
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APPLICATION PURSUANT TO S.12(10)

An application was made to the Tribunal by Counsel for the Company, Mr. Gavin Goffe, by way of a letter dated September 25, 2024, pursuant to section 12(10) of the Labour Relations and Industrial Disputes Act (the Act), requesting the interpretation of paragraph 104 of the Award of Desnoes and Geddes Limited (t/a Red Stripe) and Ms. Tannisha Miranda, IDT 16/2022, issued on the 17th of September, 2024. Section 12(10) of the Act states that:

“(10) If any question arises as to the interpretation of any award of the Tribunal the Minister or any employer, trade union or worker to whom the award relates may apply to the chairman of the Tribunal for a decision on such question, and the division of the Tribunal by which such award was made shall decide the matter and give its decision in writing to the Minister and to

the employer and trade union to whom the award relates, and to the worker (if any) who applied for the decision. Any person who applies for a decision under this subsection and any employer and trade union to whom the award in respect of which the application is made relates shall be entitled to be heard by the Tribunal before its decision is given."

A sitting was held on the 15th of October, 2024 at 10 a.m. where Counsel for the Company, Mr. Goffe, was present and made his submissions on the question of interpretation; Counsel for the Aggrieved, Mr. John Junor, was not in attendance as he indicated to the Tribunal, in a letter of even date, that his client would wish not to participate in the proceedings.

SUBMISSIONS OF THE COMPANY

Mr. Goffe made the application of the following grounds and submissions:

The question of interpretation:

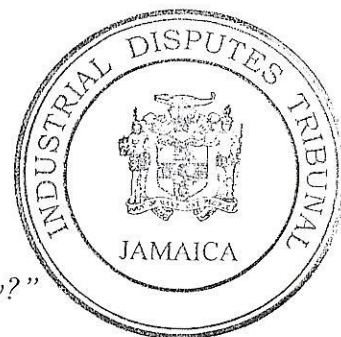
"Is paragraph 104(b) of the award an error or merely a statement of law?"

It should be noted that paragraph 104(b) states:

"That Ms. Miranda is entitled to payment in lieu of notice in accordance with the applicable provisions as set out in Section 3(1) of the Employment (Termination & Redundancy Payments) Act, 1974".

Mr. Goffe outlined the following three (3) grounds in his letter dated 25th of September, 2024:

1. *The dismissal letter dated July 8, 2020 (exhibit 10) stated, "You will be paid in lieu of notice and for any accrued but untaken holiday up to the termination date."*
2. *The claim for pay in lieu of notice was not part of the dispute between the parties that was referred to the tribunal for settlement. There was no mention of this in either party's brief.*
3. *It is our understanding of the Court's judgment in **Yellow Media (Jamaica) Limited v The Industrial Disputes Tribunal [2020] JMSC Civ 6**, paragraphs 36-39 that the IDT has the power to make general statements of law but may only award compensation where there has been a finding of unjustifiable dismissal. In this case, the Tribunal ruled that Ms. Miranda's dismissal was not unjustifiable. In the **Yellow Media** case, the Court also recommended use of s. 12(10) of the Act to obtain clarity from the Tribunal in cases such as these.*



Mr. Goffe further expanded on the grounds as set out in his letter during the sitting on 15th of October, 2024 where he reminded the Tribunal that the payment in lieu of notice was paid to Ms. Miranda and can be found at exhibit 10. For the second ground he stated that Ms. Miranda's claim was not made in accordance with the Employment (Termination and Redundancy Payments) Act for failure to give notice or pay in lieu. Counsel then reminded the panel of the **Yellow Media** case where the Court in that case the court ruled that it was not a compensatory award and therefore there should be no payment.

INTERPRETATION/CLARIFICATION

The Tribunal responds to this application pursuant to the provisions of section 12(10) of the Act on the question of whether paragraph 104 (b) of the Award was an error or merely a statement of law:

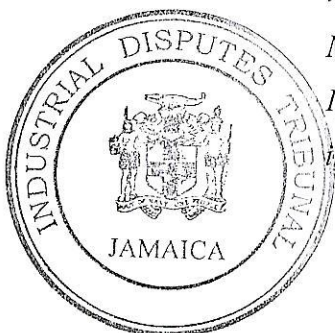
1. In the case of **Yellow Media (Jamaica) Limited v The Industrial Disputes Tribunal** [2020] JMSC Civ 6, which bore a similar issue as this instant matter, the court opined that:

"It is my view that the award is not compensatory in nature and was merely a statement of the law. In any event, it would appear as if Counsel for the Claimant would want this Court to embark on an anatomization of the words of the award to ensure compliance with the niceties to be expected of legal drafting with no due regard for the fact that the IDT is made up of laymen."

The court in refusing the Claim for Order of Certiorari decided that:

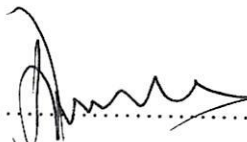
"It is my view that the IDT having determined that the termination of Miss Wade was justifiable and was on the basis of a redundancy, results in an automatic inference that she would be entitled to compensation. That compensation must be in accordance with the provisions of the Employment (Termination and Redundancy Payment) Act. Both Yellow Media Jamaica limited and Mrs. Wade would be subject to all the provisions of the legislation. I therefore cannot agree that the award is compelling Yellow Media Jamaica Limited to calculate and make compensation to Mrs. Wade."

I find that there is no evidence that the IDT went outside of their jurisdiction in making the award."



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2. Therefore, in applying the principles of **Yellow Media**, the panel states that paragraph 104 of the Award of Desnoes and Geddes Limited (t/a Red Stripe) and Ms. Tannisha Miranda was merely a statement of the law on this point. Paragraph 104 does not seek to compel or order the employer to calculate and make compensation to the aggrieved worker pursuant to the provisions of the Employment (Termination and Redundancy Payment) Act.
 3. The award of Desnoes and Geddes Limited (t/a Red Stripe) and Ms. Tannisha Miranda IDT 16/2022 issued on 17th of September, 2024 will stand in its entirety where paragraph 104 of the Award is a mere statement of law.

Dated this 25 day of October 2024



Mr. Donald Roberts, CD, JP
Chairman




Mrs. Jacqueline Irons, JP
Member



Dr. Denese Morrison, JP
Member

Witness



Mr. Mario Ling
Secretary of the Division