

# INDUSTRIAL DISPUTES TRIBUNAL

Dispute No.: 3/2021

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## SETTLEMENT OF DISPUTE

BETWEEN

NATIONAL PEOPLE'S COOPERATIVE BANK OF  
JAMAICA LIMITED

AND

CLAUDINE SMITH

AND THE

*AWARD*



### I.D.T. DIVISION

MS. SADEERA SHAW	-	CHAIRMAN
MR. RODCLIFFE ROBERTSON	-	MEMBER
MR. KEITH FAGAN	-	MEMBER

APRIL 14, 2023

**IDT 3/2021**

**INDUSTRIAL DISPUTES TRIBUNAL**

**AWARD**

**IN RESPECT OF AN INDUSTRIAL DISPUTE**

**BETWEEN**

**NATIONAL PEOPLE'S COOPERATIVE BANK OF  
JAMAICA LIMITED  
(THE BANK)**

**AND**

**CLAUDINE SMITH  
(THE DISMISSED WORKER)**

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**REFERENCE:**

By letter dated April 23, 2021, the Honourable Minister of Labour and Social Security, pursuant to Section 11A (1) (a) (i) of the Labour Relations and Industrial Dispute Act, 1975 (hereinafter called "the Act"), referred to the Industrial Disputes Tribunal for settlement, in accordance with the following Terms of Reference, the industrial dispute describe therein:-

The Terms of Reference were as follows:

*"To determine and settle the dispute between National People's Cooperative Bank of Jamaica Limited on the one hand and Claudine Smith on the other hand, over the termination of her employment".*

## **DIVISION**

The division of the Tribunal which was selected in accordance with section 8(2)(c) of the Act and which dealt with the matter comprised:

Ms. Sadeera Shaw	-	Chairman
Mr. Rodcliffe Robertson	-	Member, Section 8(2)(c)(ii)
Mr. Keith Fagan	-	Member, Section 8(2)(c)(iii)

## **REPRESENTATIVES OF THE PARTIES:**

The **Bank** was represented by:

Mr. Donald A. Gitten	-	Attorney-at- Law
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Also in attendance:

Miss Crystal Anderson	-	Acting Human Resource Manager
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The **Dismissed Worker** was represented by:

Mr. Alexander Nicholson	-	Industrial Relations Consultant
Mr. Alexi Hull	-	Industrial Relations Consultant

In attendance:

Miss. Claudine Smith	-	Dismissed Worker
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## **SUBMISSIONS AND SITTINGS**

Briefs were submitted by both parties who made written and oral submissions during fourteen (14) sittings from October 25, 2021, and August 9, 2022.





## **BACKGROUND TO THE DISPUTE:**

1. The National People's Co-operative Bank of Jamaica Limited, *hereinafter referred to as the Bank*, is the only 'community bank' for rural agricultural and community development in Jamaica. The Bank provides a range of services including savings and loan facilities to the micro, small and medium-sized enterprises, legal services, limited bill payment services and the Family Indemnity Insurance Plan.
2. Ms. Claudine Smith, *hereinafter referred to as the Dismissed Worker*, was first employed to the Bank as an Account Assistant in 1996 and was promoted to a Teller in 2005. She applied for the position of Officer-in Charge/Branch Manager, which she was successful and was confirmed in the position in July 2007. However, in February 2012, she resigned from the position of Officer-in-Charge/Branch Manager and was immediately re-hired as a Teller assigned to the Maldon branch. By way of letter dated December 24, 2018, the Dismissed Worker was informed that her employment was terminated effective December 31, 2018.
3. The Dismissed Worker engaged the services of Mr. Alexander Nicholson, Industrial Relations Consultant, who contested her termination and sought the intervention of the Ministry of Labour & Social Security. No resolution was reached and the dispute was referred to the Industrial Disputes Tribunal for determination and settlement.

## **THE BANK'S CASE**

4. In presenting its case, the Bank, through its representative, Mr. Donald Gittens, called two (2) witnesses. The first witness was Mr. Donovan Cunningham who testified that he is the current Acting General Manager at the Bank but served as Human Resources and Industrial Relations Manager when he became aware of the matter concerning the Dismissed Worker. He then gave evidence that the said issues were brought before him when her (the Dismissed Worker's) Manager, Ms. Hudesha Hines, called the Human Resources Department and sought an intervention at the Maldon branch where they worked. It is his evidence that Ms. Hines sent a follow-up email to Human Resources Department regarding the said intervention. The email contained a document used to reprimand the Dismissed Worker for her continued tardiness and reference was made to the number of times she was tardy and spoken to. It is also his evidence



that it was a single document which alluded to a series of documents. He testified that the document was acknowledged by the Dismissed Worker with her signature.

5. Mr. Cunningham gave evidence that the Bank had a disciplinary policy that outlined matters of discipline and what was expected from its employees. He further gave evidence that the said disciplinary policy captured the issues the Bank was experiencing with the Dismissed Worker, namely her tardiness. He stated that the Dismissed Worker's tardiness was brought to his attention for intervention due to the fact that she persistently arrived at work later than what was acceptable spanning from ½ hour-2 hours without permission or reasons acceptable to the Bank. This continued despite being spoken and written to by Ms. Hines. He testified that the opening hours of the bank were 8:30a.m. - 4:30p.m. and the employees were given a 15 minutes grace period to arrive at work (8:45a.m). After that time, the employees were considered late.
6. It is Mr. Cunningham's evidence that the Bank had an attendance register at the branch that captured the arrival and departure times of the employees. It is also his evidence that Ms. Hines was in charge of the register. He testified that tardiness was reflected in the register by a line being drawn by Ms. Hines after the allowable time to arrive at work. The employee was required to sign below the line which indicated that the employee was late.
7. He testified that his intervention entailed him calling the branch on December 5, 2018 which he spoke to Ms. Hines first. He stated that he asked her what happened and the reason why she sought the intervention. He then asked to speak with the Dismissed Worker. It is his evidence that during the telephone call with the Dismissed Worker, he introduced himself and asked her what was causing her to arrive at work late. He testified that she responded by saying that she had no reason for being late. He further testified that she (the Dismissed Worker) chuckled and snickered when he told her that since she had no reason for being late then she needs to desist. He gave evidence that based on her response (the chuckle) he informed her that she can be disciplined for being late to the extent of termination. He further gave evidence that the Dismissed Worker then stated "*Unuh do whey unuh haffi do, Mi nah come early, Mi caan bother*".
8. Mr. Cunningham testified that the Dismissed Worker committed several infractions prior to December 5, 2018 in which she was charged in writing. He further testified that he saw the



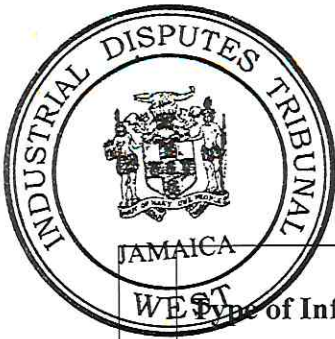
letters on her file pointing out her habitual lateness and instructions to desist. He gave evidence that there weren't any punishment expressed in them. During the telephone conversation, he also sought to confirm whether the signature on those letters she (the Dismissed Worker) received concerning her tardiness were hers which she confirmed. He stated that he asked her if she understood the implications of arriving to work late and how it affected the operations of the Bank. It is Mr. Cunningham's evidence that a letter of even date was written to the Dismissed Worker confirming the discussions in the said phone call.

9. Concerning the disciplinary process, he stated that the issue giving rise to disciplinary action was clearly communicated in writing to the Dismissed Worker with letter dated December 5, 2018. He further stated that the charge was specified as habitually arriving at work late as expressed in item 16 in the Bank's Disciplinary Policy. The letter continued to state that if she (the Dismissed Worker) continued to breach the policy it would amount to insubordination and gross misconduct which could form a new charge. He gave evidence that the Dismissed Worker was given the right to representation of her choice and the right to state her case which she refused when she told him during the telephone conversation of December 5, 2018 that the bank must go ahead and do what it needed to do.
10. It is his evidence that all evidence used against the Dismissed Worker were provided to her. It is also his evidence that the Dismissed Worker was not afforded a disciplinary hearing as she stated in the December 5, 2018 telephone conversation that *"Unuh do whey unuh haffi do, Mi nah come early, Mi caan bother"*. From her response, he stated that it constituted a refusal to attend a disciplinary hearing and hence the Labour Relations Code was not breached. He further said in accordance to the Bank's handbook, a disciplinary hearing is held if all the parties agreed.
11. Mr. Cunningham agreed that the disciplinary actions for breaching item 16 of the Disciplinary Policy were verbal warning, a written warning, a final warning and then termination if the breach continued. He indicated that the letter dated December 5, 2018 was both the final warning letter and letter setting out the charge against the Dismissed Worker.
12. Mr. Cunningham testified that subsequent correspondence was sent to the Dismissed Worker after the records showed late arrivals after December 5, 2018. He stated that the General

Manager, Mr. Athelstan Bellamy, gave instructions to terminate the Dismissed Worker's services. He gave evidence that he considered the fact that he gave her (the Dismissed Worker) the opportunity to express her reason for arriving to work late and explained the disciplinary process to her. Due to her response that no matter what the Bank did, she will not arrive to work early, it is his evidence that the Bank exhausted every opportunity to help her. He stated that in the capacity of Human Resource Manager, having warned the Dismissed Worker about the breach and the impact it had on the Bank, he carried out the General Manager's instruction by way of letter dated December 24, 2018 which was sent to the branch via courier then delivered to the Dismissed Worker by Ms. Hines. He testified that the Dismissed Worker was issued with verbal, written and final written warning prior to being terminated.

13. He gave evidence that the Dismissed Worker was given the right to appeal and an appeal hearing was held. The appeal hearing was conducted by a panel external to the Bank. He stated that the appeal panel decided to uphold the Bank's decision to terminate as they (the panel) were of the view that the Bank gave the Dismissed Worker every opportunity to correct the deviance.
14. The second witness was Ms. Hudesha Hines who is the Branch Manager/Officer-in-Charge at the Bank's Anchovy Branch since April 2021. She testified that she previously worked as the Branch Manager/Officer-in-Charge of the Maldon Branch for the period 2013-2019 where the Dismissed Worker was assigned. Miss Hines gave evidence that when she joined the Bank the Dismissed Worker was already employed there. She stated that as Branch Manager she was in charge of the branch which entailed everything that happened at the branch and the employees. She testified that she had a good relationship with the Dismissed Worker and described the Dismissed Worker as a bit slow in performing her tasks but she got the job done.
15. It is her evidence that the Dismissed Worker was terminated for breaching item 16 of the Disciplinary Policy which states:





	Type of Infraction	First Scheduled	Second Scheduled	Third Scheduled	Fourth Scheduled
16	Being habitually late, that is 5 times in any one calendar month without reason acceptable to the Bank provided that at the end of each 6 months since the last offence, the record would be cleaned.	Oral warning	Written warning	Final written warning/ Suspension	Dismissal

16. It is Ms. Hines’ testimony that she verbally warned the Dismissed Worker and a letter was placed on her file. It is also her evidence that she (the Dismissed Worker) was issued several written warnings regarding her habitual lateness with the last written warning being in December 2018. She explained that the warning letter she wrote on December 5, 2018 to the Dismissed Worker was the 6<sup>th</sup> warning letter for the year 2018. She stated that she considered the warning letters as a disciplinary action. She gave evidence that she sought intervention from her supervisor, Ms. Sibrina Johnson, Operations Manager, to assist with the continuous breach by the Dismissed Worker as she had exhausted all the measures available to her. This led to a telephone conversation between Mr. Cunningham and the Dismissed Worker. She stated that she was not privy to the details of the conversation but Mr. Cunningham informed her that an agreement was made with the Dismissed Worker. She testified that after the telephone conversation, Mr. Cunningham called her to ascertain whether there was any improvement in the Dismissed Worker’s tardiness.
17. Ms. Hines testified that the habitual lateness of the Dismissed Worker affected the Bank’s operation and caused delays for customers. She further testified that it affected her performance as well. She stated that performance evaluations were conducted and normally due in December of each year or January of the following year. She also stated that she conducted a performance evaluation of the Dismissed Worker in January 2018. She gave evidence that usually after the evaluations were conducted, the results were sent to the Human Resources

Department. If the staff was not in agreement with the evaluation, there was a discussion with the supervisor. She explained that some of the factors considered in a performance evaluation were balance ratio, attendance and lateness. She further explained that if the employee's performance was low, then the Performance Improvement Procedure was put in place. It is her evidence that such procedure was put in place for the Dismissed Worker where she worked with her (the Dismissed Worker) with the aim to improve her performance. She gave evidence that she had one-on-one meetings with the Dismissed Worker to ascertain the reason for her lateness. She stated that the Dismissed Worker informed her that the reason for her tardiness was because she had to go to the river to take a bath in the mornings. She didn't recall if a formal document pertaining to the Performance Improvement Procedure was placed on her (the Dismissed Worker's) file.

18. It is her evidence that the Maldon Branch had two (2) tellers. If one teller was absent, it caused a delay in the service provided. She said that work hours were 8:30a.m-4:30p.m with a 15 minute grace period which should be used to prepare for the public such as opening the vault, turning on the computers and getting cash ready. She stated that the Bank opens to the public at 8:45a.m.

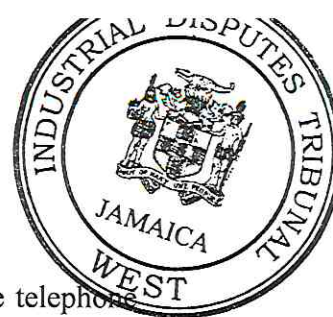
19. She testified that she was not aware whether a disciplinary hearing or an appeal were held. She further testified that the Dismissed Worker was dismissed by a termination letter.

### **THE BANK'S CONTENTIONS**

The Bank contends that:

- a. The Dismissed Worker's habitual lateness demonstrated not just a failure but a blatant refusal to conform with the Bank's policy;
- b. The Dismissed Worker was given an opportunity to state her case during telephone conference on December 5, 2018 with the Human Resources Manager;





- c. The Dismissed Worker did not ask to be assisted by an representative in the telephone conference with the Human Resources Manager;
- d. The utterances of the Dismissed Worker on the telephone conference on December 5, 2018 was a direct refusal of a hearing and right to representation hence its was in its right to terminate her service without a hearing or giving her the right to representation.
- e. Its decision to terminate the Dismissed Worker was not from her (the Dismissed Worker) committing a 1st offence but after many warnings;
- f. The dismissal was clearly specified and communicated in a letter from senior management;
- g. An appeal was afforded to the Dismissed Worker by an independent panel;
- h. The manner in which due process was carried out was appropriate to the nature of the misconduct;
- i. The Bank asked that the Tribunal finds that the Dismissed Worker was not unjustifiably terminated. Alternatively, if the Tribunal were to be of the view that the dismissal was in breach of natural justice and/or the Labour Relations Code that no order be made for the Dismissed Worker to be reinstated and that any award granted reflects the egregious conduct of the Dismissed worker and the mitigating circumstances.

### **THE DISMISSED WORKER'S CASE**

20. Ms. Smith testified in examination-in-chief that she was employed to the Bank specifically at the Maldon Branch. She described her relationship with her co-workers as favourable and respectful. She gave evidence that she started as a Teller/Customer Service Representative. She explained her duties to consist of completing reports, conducting withdrawals, promoting loans and the various products of the Bank such as the Indemnity Plan. She stated that she promoted the Bank's products at schools, churches and customer appreciation days. She testified that she promoted small business loans, called customers,



completed reports and visited customers to secure loans. She also testified that disbursed loans on Wednesdays and Fridays.

21. She stated that she also worked as a loan officer when the employees responsible for that department went on maternity leave without additional compensation. It is her evidence that as a loan officer she authenticated loans, visited businesses such as shops, pigpens and pine fields. She gave evidence that the visits were done in the mornings and at times during work hours. In those instances, she testified that she called the Branch Manager and informed her that she was visiting customers and would be late. This was authorized by the Bank. She indicated that she arranged transportation and was reimbursed after she filled out the required form and approval given. She explained that some visits were conducted in the evenings after work. In those instance, she gave evidence that the Branch Manager accompanied her and brought her home afterwards at approximately 6:30p.m.-7:00p.m. She explained that at times when she reached home in the evenings her work clothes and shoes would be soaked from the rain.
22. She gave evidence that she explained to Ms. Hines on more than one (1) occasion that it was challenging for her to perform the duties of a Teller and Loans Officer concurrently and requested assistance and/or to be relieved from being a Loans Officer. She testified that Ms. Hines informed her that if such a request was made she might be fired. It is her evidence that the reason for her tardiness was because of family issues, lack of resources and exhaustion. She testified that she tried as much as she could to arrive to work on time but was really exhausted.
23. She later testified that she also held the position of Officer-in-Charge at the Maldon Branch from 2006-2013. She gave evidence that she resigned from being an Officer-in-Charge to the position of Customer Service Representative on the recommendation of the General Manager as he (the General Manager) didn't want her to leave the Bank. This was communicated via letter where she resigned one post and applied for the other in the same letter. She agreed that the reason why she resigned the post of Officer-in-Charge was because she was unable to manage the Branch effectively. She explained in detail the reason for her resignation was due to a situation which occurred at the branch. The situation



was that a teller issued monies to the wrong person who forged someone else's signature. She stated that as a result of the incident she had to step down from the position of Officer-in-Charge. She further stated that out of embarrassment she wanted to leave the Bank.

24. Ms. Smith testified that she received a termination letter from the Branch Manager on December 24, 2018. She recalled that she received a telephone call from the Human Resources Manager, Mr. Cunningham, prior to receiving the said letter. In the said telephone call, she stated that Mr. Cunningham brought her attention to her tardiness and asked her what the Bank should do about it. It is her evidence that she responded that he should do what is best for the Bank. She then stated that Mr. Cunningham told her that he would speak to the committee and get back to her which he didn't. It is her evidence that she was not asked to write a report concerning her tardiness nor was she afforded a meeting. It is also her evidence that she was not informed of her right to representation and was not given the right of appeal.
25. She indicated that she received warning letters in the past which indicated that she breached the Bank's Policy. She gave evidence that she acknowledged her weakness but was not expecting the outcome of termination because she worked hard for the Bank ensuring that the work was done and she promoted the Bank at every opportunity. She testified that she was aware of the Disciplinary Policy but didn't know it in detail nor any amendments to the said document. It is her evidence that she would return to the Bank to work if possible.
26. She gave evidence that after receipt of the termination letter, she asked Ms. Hines what to do. She stated that Ms. Hines directed her to contact the Human Resources Department. It is Ms. Hines' evidence that she made attempts to contact Ms. Anderson and Ms. Johnson from the Accounts Department. She indicated that she was told that they would call her back but they didn't. She further indicated that for a month she only received excuses when she called the Head Office and that the operator tried to assist her by relaying her messages.
27. Ms. Smith stated that she was not paid notice pay. She also stated that she received a sum of approximately twenty four thousand dollars (\$24,000) via wire transfer but was not told what the funds represented. She testified that she was paid monthly after the attendance



report was approved by Ms. Hines. She gave evidence that along with her salary she also received uniform subsidy annually or bi-annually and lunch subsidy monthly.

28. She stated that after her termination she made attempts to seek alternative employment without success. She explained that her mother became ill and as a result she had to help her mother on her farm. She further explained that she continues to assist her mother with farming and to care for her. She gave evidence that she received approximately \$15,000-\$20,000 per week depending on what was available and what was sold. She further gave evidence that she received funds outside of the farm on a monthly basis of approximately \$10,000-\$15,000. She testified that they had to pay workers on the farm to do the weeding, cleaning and molding.

### **THE DISMISSED WORKER'S CONTENTIONS**

The Dismissed Worker contends that:

- a. She was terminated without due process and that she was denied the right to a disciplinary hearing which incorporated the principle that an accused should be allowed to have a representative of his/her own choice. As such, the principles of natural justice as well as the strict tenets of procedural fairness were not followed.
- b. She was not informed of the charges laid against her so as to allow time to understand, seek representation of her own choice and prepare her case.
- c. It asked of the Tribunal to reflect on the leading English case on impartiality *R v Sussex Justices, ex parte McCarthy* which is famous for bringing into common parlance the oft-quoted aphorism "*not only must justice be done; it must also be seen to be done.*" in considering any remedy.
- d. Her Representative asked the Tribunal to find that she was unjustifiably dismissed and to consider her request to be reinstated. If the Tribunal were not to order reinstatement, that it should award payment for the period between her dismissal and the award, an additional

sum for her years of service, the challenges she would face in securing alternate employment and all salaries and emoluments she was entitled to at the time of her termination.

### **THE TRIBUNAL'S RESPONSE AND FINDINGS**

29. The Tribunal, after careful examination of the evidence adduced by both parties, asked itself determine whether the Bank was justified in the termination of Ms. Smith's employment.

30. The evidence presented confirmed that the Dismissed Worker held the position of Customer Service Representative/Teller up until her termination. The evidence also showed that during the Dismissed Worker's employment, she breached the Bank's policy, specifically offence #16 as outlined in the Disciplinary Policy. It states:

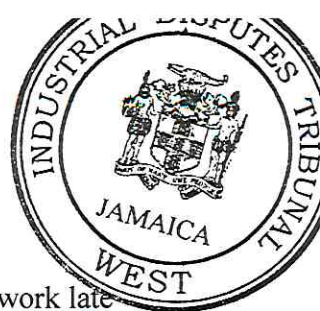
*"Being habitually late, that is, 5 times in any one calendar month without reason acceptable to the Bank provided that at the end of each 6 months since the last offence, the record would be cleaned."*

With that said, the Dismissed Worker received a number of warning letters pertaining to her tardiness as outlined below:





Exhibit	Date of Letter	Months in which lateness was recorded	Number of recorded lateness	Level of Warning
#13	November 3, 2017	October 2017	9 Times	None
#12	March 2, 2018	February 2018	8 Times	Oral Warning
#11	August 7, 2018	June & July 2018	23 Times	Written Warning
#10	September 10, 2018	August 2018	9 Times	Final Written Warning
#9	October 17, 2018	September 2018	17 Times	Written Warning
#8	November 9, 2018	October 2018	18 Times	Written Warning
#7	December 5, 2018	November 2018	13 Times	Written Warning



In summary, over a period of eight (8) months, the Dismissed Worker arrived at work late ninety-seven (97) times. In all these letters the Dismissed Worker was reminded of the specific offence breached, namely offence # 16, and the penalties associated with each level of occurrence.

31. It is accepted that the Dismissed Worker's tardiness was escalated to the Human Resources Department for intervention. The intervention occurred on December 5, 2018 when there was a telephone conversation between the Dismissed Worker and the Human Resources Manager, Mr. Cunningham. The Tribunal does not accept the Bank's evidence that the utterances by the Dismissed Worker during the said telephone conversation was a refusal for a disciplinary hearing, right to representation and an opportunity to state her case. The Bank has an obligation, despite an employee's words and/or actions, to abide by the Labour Relations Code and the strict principles of natural justice in terminating the services of an employee.
32. With regards to the letter dated December 5, 2018, the Tribunal does not accept the Bank's evidence that it was a warning letter nor a charge letter, as required to be issued to an employee in a case where the Bank intends to take disciplinary actions against an employee. The Tribunal is of the view that the said letter was a summary of what transpired during the telephone conversation. The Tribunal notes that the Dismissed Worker also received a warning letter from Ms. Hines on the same date concerning her (the Dismissed Worker's) tardiness. Approximately three (3) weeks later, the Dismissed Worker was issued a termination letter after it was discovered that she was late after December 5, 2018.
33. In considering the matter of procedural fairness during the disciplinary process, the Tribunal is tasked to look into the Bank's dealings with the Dismissed Worker. The Dismissed Worker's employment was terminated for disciplinary reasons and therefore section 22 of the Labour Relations Code is applicable. Section 22 of the Labour Relations Code states that:



#### ***Disciplinary Procedure***

- 1) *Disciplinary Procedures should be agreed between management and worker representatives and should ensure that fair and effective arrangements exist for dealing with disciplinary matters. The procedure should be in writing and should:*
    - a) *specify who has the authority to take various forms of disciplinary action, and ensure that supervisors do not have the power to dismiss without reference to more senior management;*
    - b) *indicate that the matter giving rise to the disciplinary action be clearly specified and communicated in writing to the relevant parties;*
    - c) *give the worker the opportunity to state his case and the right to be accompanied by his representatives;*
    - d) *provide for a right of appeal, wherever practicable, to a level of management not previously involved;*
    - e) *be simple and rapid in operation.*
34. The Tribunal finds that the Bank didn't inform the Dismissed Worker of the charge against her in writing. Both parties confirmed that the Dismissed Worker was not invited to a disciplinary hearing prior to her dismissal on December 24, 2018. The Tribunal also finds that the Dismissed Worker was denied the right to state her case and was not given the opportunity to choose a representative of her choice. It is noted that the Dismissed Worker was given the right to appeal which was held.
35. The Tribunal must also consider Section 3(4) of the Labour Relations and Industrial Disputes Act, which states:

*“A failure on the part of any person to observe any provision of a Labour Relations Code which is for the time being in operation shall not of itself render him liable to any proceeding; but in any proceedings before the Tribunal or a Board any provision of such code which appears to the Tribunal or a Board to be relevant to any question arising in the proceedings shall be taken into account by the Tribunal or Board in determining that question.”*

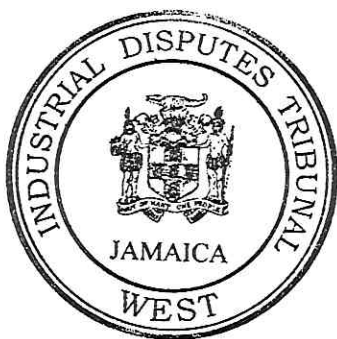
36. Upon examination of the evidence presented, the Tribunal finds that the Bank had cogent reasons to terminate the Dismissed Worker for tardiness. Notwithstanding that the Dismissed Worker was guilty of breaching the Bank's policy, the Bank failed to observe the provisions as set out in the Labour Relations Code. The Tribunal is also of the view that the Bank failed to observe the strict principles of natural justice in terminating Ms. Smith.
37. The Tribunal finds that the Dismissed Worker contributed to her termination. It is also noted that the Dismissed Worker made concentrated efforts to mitigate her loss by seeking alternative employment and assisting on her mother's farm.
38. Therefore, the Tribunal concludes that the termination of the Dismissed Worker was unjustifiable.



**AWARD**

In accordance with Section 12(5)(c)(ii) of the Labour Relations and Industrial Disputes Act, the Tribunal awards that Ms. Claudine Smith be compensated in the amount of One Million and Eight Hundred Thousand Dollars (\$1,800,000.00) for her unjustifiable dismissal.

DATED THIS 14<sup>th</sup> DAY OF APRIL 2023



Sadeera Shaw  
Chairman

Rodcliffe Robertson  
Member

Keith Fagan  
Member

Witness

Jody-Ann Lindo (Ms.)  
Secretary to the Division