

No. 6

Notice of Originating Motion (0.8, r.3)

IN THE GRAND COURT OF THE CAYMAN ISLANDS

CAUSE NO: 386 OF 2010

In the matter of Immigration Law 2007 (2007 Revision), (the "Law"), section 15(1) & (3).

And in the matter of the Revocation of Caymanian Status of Pearl Gooden Seymour pursuant to the Law, section 28, by at decision of the Immigration Appeals Tribunal made by letter dated letter dated 27 October 2008.

NOTICE OF ORIGINATING MOTION

TAKE NOTICE that the Court at the Law Courts, George Town, Grand Cayman will be moved on 2010 at or as soon thereafter as counsel can be heard, by counsel on behalf of Pear Gooden Seymour (the Applicant) for an order that the decision of the Chairman of the Immigration Appeal Tribunal ("IAT"), to refuse to consider an appeal lodged on 13 March 2009 against a decision made in a letter dated 27 March 2008 to revoke Caymanian Status to the applicant pursuant to section 28 of the Law which letter was only received by the applicant on 13 March 2009 or alternatively that the matter be remitted to the Immigration Board or IAT to reconsider the application pursuant to applicable law in place at that time.

And for an Order that the applicant be permitted to stay in the Cayman Islands until such time as the substantive matter is considered.

And for an order that the costs of and incidental to this appeal may be paid by Immigration Department.

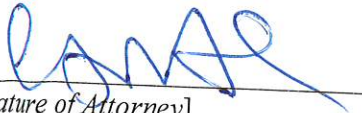
AND FURTHER TAKE NOTICE that the grounds of this appeal are as follows:

1. The Caymanian Status and Permanent Residency Board ("Board") by letter dated 27 October 2008 notified the applicant that she ceased to possess Caymanian Status. By the letter of the same date the applicant was notified of her right to appeal.
2. For reasons unbeknownst to the applicant, the letter was not served on the Applicant until 13 March 2009. The letter was served on the applicant by an officer of the Immigration Department, namely Josen Ebanks.
3. On the same date, 13 March 2009, the applicant lodged a notice of appeal together with all supplemental documents as required under the Law and the regulations.
4. On 17 April 2009 the Board by letter of the same date confirmed receipt of the Notice of Appeal but stated "Taking into consideration all the information presented the application has been refused as there is no basis on which the Chairman could extend his discretion to allow the appeal." It is clear from the words used both in the letter of 13 March 2010 from Clyde Allen's Chambers to the Secretary of the Immigration Appeals Tribunal that



no application was made for an extension of time or from the words used in the letter of 17 April 2009 that no extension of time was either considered or granted.

5. The decision of the chairman viewed broadly and fairly is one that no reasonable tribunal, properly directing themselves in Law and on the evidence could have reached on the material before them.
6. The IAT erred in that it failed to properly considered the matter before it and/or consider when the applicant was first notified of the decision to revoke her Caymanian Status.
7. The Law at section 15 (1) (a) clearly sets out that any person aggrieved by a decision may within "(a) Twenty-eight days of the **communication of the decision to him**.....appeal there from by way of a rehearing to the Immigration Appeals Tribunal..." (my emphasis).
8. Section 15(3) of the Law states that where notice is sent by post (which was the case here) "such notice shall be deemed to have been communicated to the appellant at the time at which it should have been received by him in the ordinary course of post". The applicant never received that letter. The Immigration Department in March 2009 wrote to the applicant's employer informing her that she could not work any longer. On the same day she was contacted by the Enforcement Section of the Immigration Department and provided with the letter of 13 March 2009.
9. The applicant seeks an Order that the decision of the Chairperson not to consider and thus hear her appeal is unlawful in the circumstances.



[Signature of Attorney]

TO: The Clerk of the Court.

AND TO: The Immigration Appeals Tribunal, Government Administration Building, Grand Cayman KY1-9000, CAYMAN ISLANDS

This **Originating Motion** was filed by Clyde H. Allen, Chambers on behalf of the Applicant whose address for service is P.O. Box 31076 SMB, 2nd Floor, Suite 9, Jack & Jill Building, 19 Fort Street, KYI-1205, George Town, Grand Cayman, Cayman Islands.