

**APPLICATION FOR LEAVE TO APPLY FOR JUDICIAL REVIEW( O53 r.3)**

IN THE GRAND COURT OF THE CAYMAN ISLANDS

HOLDEN AT GEORGE TOWN, GRAND CAYMAN

CAUSE NO. 338 OF 2011



IN THE MATTER OF AN APPLICATION BY MICHAL SMITH FOR LEAVE TO APPLY FOR JUDICIAL REVIEW

AND IN THE MATTER OF A DECISION OF THE CAYMANIAN STATUS AND PERMANENT RESIDENCY BOARD DATED MAY 17, 2011 MADE BY THE CHAIRPERSON FOR AN ORDER OF DECLARATION AND AN INJUNCTION

BETWEEN: Michal Smith APPLICANT

AND: Immigration Appeal Tribunal APPELLANT



**Application for leave to apply for Judicial Review**

To: The Clerk of the Grand Court

**Name, address,description  
or other of Applicant**

Michal Smith,c/o Clive Smith,46 Nash  
Close,Bodden Town,Grand Cayman

**Judgment,Order,decision or  
Other proceeding in respect of  
Which relief is sought**

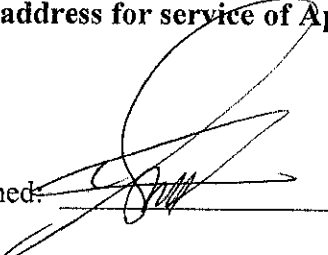
Decision of the Chairperson of the  
Immigration Appeal Tribunal is unfair and  
breach of natural justice in that the reason cited for  
the dismissal does not provide the appellant with a clear  
exposition of the grounds and the reasons for dismissing  
his appeal such that he can clearly understand the basis for  
the appeals' dismissal.

**Relief Sought**

Leave to apply to the Grand Court of the Cayman Islands for Judicial Review for the issue of a declaratory relief or injunction to quash the decision of the Immigration Appeal Tribunal for failing to provide adequate and sufficient reasons to the applicant as to why his appeal was dismissed thereby adversely affecting his rights and/or interest to a material extent.

**Name, address of Applicant's  
Attorney or if no attorney  
the address for service of Applicant**

Michal Smith c/o Clive Smith, 46 Nash Close  
Bodden Town, Grand Cayman.

Signed: 

Dated: August, 22 2011

### **GROUND ON WHICH RELIEF IS SOUGHT**

1. Section 15 of the Immigration Law ( 2009 Revision) states

“ 15. (1) Save as otherwise provided in this Law, any person aggrieved by, or dissatisfied with, any decision of the Chief Immigration Officer under section 45(5) or a Board other than a decision under section 14 may.....appeal therefrom by way of a rehearing to the Immigration Appeals Tribunal, and matters referred to the Tribunal may not be remitted to that Board or to the Chief Immigration Officer.

(2) An appeal under subsection (1) may be lodged on the ground that it is

(a) erroneous in law

(b) unreasonable

(c) contrary to the principles of natural justice

(d) at variance with the regulations

“Section 16(11)

“ The decision of the Appellate Tribunal shall be notified to the appellant with the least possible delay.”

Section 17

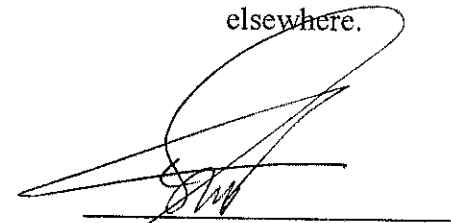
“ (1) On an appeal, the Immigration Appeals Tribunal may make such order, including an order for costs;

“(2) An appeal may be made to the Grand Court from a decision of the Immigration Appeals Tribunal on a point of law only”

Section 19

“ The Chief Justice may make rules relating to the procedure and forms to be used for the notice of appeal to the court and the admission of evidence of any appeal heard by the Immigration Appeals Tribunal”.

2. The Appellant was aggrieved by the decision of the Caymanian Status and Permanent Residency Board and the Immigration Appeals Tribunal contained in their letter dated May 17, 2011.
3. The Appellant contends that the decision of the Tribunal for dismissing his employee's appeal and the reason it cited communicated by the said letter are simply inadequate and unsatisfactory. The Tribunal dismissed the appeal by saying as follows: “.....the Tribunal reviewed the Notice of Appeal dated 12 December, 2008 and noted that no ground of appeal had been served pursuant to Section 15(2) and 16 (4) of the Immigration Law ( 2010 Revision).....” . This is not a reason but merely a reference to those sections of the Immigration Law which deal with appeal. They cannot be sufficient as reasons for dismissing the said appeal as it is difficult to determine from such reason how or by what method the Tribunal arrived at that conclusion.
4. It is regarded as a breach of natural justice and an infringement of the rights of the appellant not to provide him with a clear exposition of the grounds and the reason for refusing his appeal so that he can clearly understand the basis upon which his appeal is dismissed. It is particularly important for the appellant to see that he is being treated fairly especially where a decision directly affects his life and that of his family to the extent that he has to, within a relatively short time, be given notice to uproot himself and his family from Cayman where he has lived and worked for close to 15 years to start a new life elsewhere.



Clive Smith  
Employer of the appellant

22-8-2011

ps. Will retain an attorney-at-law to argue point of law if leave is granted

Filed by Clive Smith of Bodden Town, The appellant's employer on behalf of the employee ph: 929-3950)