

IN THE GRAND COURT OF THE CAYMAN ISLANDS

CAUSE NUMBER: 468 of 2011

LEGAL AID CERTIFICATE No.LACV0025/2011

IN THE MATTER OF AN APPEAL UNDER S.17 (2) IMMIGRATION LAW (2010 REVISION)

AND ORDER 55 GRAND COURT RULES 1995 REVISION

AND IN THE MATTER OF

KAYLA DAVIDSON

v

IMMIGRATION APPEALS TRIBUNAL



**NOTICE OF MOTION**

**Take Notice** that the Grand Court at the Law Courts, George Town, Grand Cayman will be moved as soon as Counsel can be heard on behalf of Kayla Davidson, for an order that (a) the time for submitting this application in accordance with Order 55 r4 (2) Grand Court Rules (1995 Revision) be extended in accordance with Order 3 r5 (1) and (b) the Judgment of the Immigration Appeals Tribunal as indicated by letter dated 26 January 2011 and originating from a hearing on the 2 December 2010, be set aside, and the appellants application for Permanent Residency be referred back to the Immigration Appeals Tribunal for reassessment in accordance with the rules of natural justice as indicated in the grounds for the Appeal below, and (c) a declaration that the 'points system' used by the Permanent Residency and Status Board to qualify applications for permanent residency in the Islands is inherently flawed, unfair, and results in substantial wrongs and miscarriages of justice;

**AND FURTHER TAKE NOTICE** that the Grounds of this Appeal are:


1. The appellant appearing before the Immigration Appeals Tribunal on 2 December 2010 seeking permanent residency under the 'points system', was not allocated any points at all under the

category **Knowledge & Experience**. The lack of points in this category resulted in the dismissal of her application. The reason given by the Tribunal for not allocating points in this category was that despite the fact that an offer of employment as a sales representative had been made to the applicant and substantiated , "there was no proof" that the appellant had any experience or knowledge in the position of 'sales representative'.

2. Given the extensive and varied employment record of Mrs. Davidson mostly in the areas of 'customer service' (and made available to the Tribunal) the Tribunal not only acted unreasonably i.e. did not apply logical or rational principles to their discretionary decision, but also disregarded a relevant consideration i.e. Mrs. Davidson's work experience generally, perhaps through a mistaken impression that the category required a literal interpretation.
3. Further, since the applicant had a Caymanian child the tribunal had a shared interest in establishing a more positive approach to the points system generally with regard to the appellant's application and in particular, the category described as Knowledge & Experience. Allocation or non-allocation of points in other categories (such as Financial Assessment) is also suspect.
4. The non-allocation of points under the heading **Knowledge & Experience** (a 12 point deduction from previous allocations), was erroneous in law, unfair, unreasonable and contrary to the principles of natural justice. Further the decision was based on ignorance and or mistake as to the intention of the legislature and or immigration policy framers in devising the category labelled Knowledge & Experience.
5. In conclusion, additional evidence by way of substantiating the work experience of the appellant and its relationship to the position of sales representative will be provided to the Court should leave be granted.

The Appellant will serve detailed submissions in due course

Dated this 28 November 2011



**IRVIN BANKS**

**Attorney-at-law for the Appellant**

**To:** The Clerk of the Court

**And To:** The Legal Department