

No. 53  
**Application for Leave to Apply for Judicial Review (0.53, r.3)**



IN THE GRAND COURT OF THE CAYMAN ISLANDS

390  
 CAUSE NO: OF 2012

BETWEEN: EDNA MAY WELLINGTON

PLAINTIFF

AND: IMMIGRATION APPEALS TRIBUNAL

DEFENDANT

APPLICATION FOR LEAVE TO APPLY FOR JUDICIAL REVIEW



To the Clerk of the Court, Law Courts, George Town, Grand Cayman	
Name, address and description of applicant(s)	Edna May Wellington of 19 Brinkley Drive GT. P.O. Box 1710 GT. Grand Cayman KY1-1109. A Landlady, 79 years old (seriously sick) in need of a Maintenance Man to take care of the property.
Judgment, order, decision or other proceeding in respect of which relief is sought	The refusal of the Immigration Appeal Tribunal to consider (hearing) of my appeal, dismissing it suddenly without even considering the Grounds of Appeal, backtracking an appeal that was already on its way.
<b>Relief Sought</b>	
Continuation of the appeal process by its normal way in accordance th the Immigration law (Re-Hearing)	
Name and address of applicant's attorneys, or, if no attorneys acting, the address for service of the applicant	19 Brinkley Drive GT. P.O. Box 1710 GT. Grand Cayman KY-1-1109.
Signed <i>Edna Wellington</i>	Dated: 18 Sep. 2012

## GROUND ON WHICH RELIEF IS SOUGHT

(There has been a delay because I am very old, sick and money was an issue to file this case)

Note - Grounds must be supported by an affidavit which verifies the facts relied on.

This Judicial Review is sought pursuant to Section 17 (2) of the Immigration Law (2011 Revision).

### **DECISION AGAINST WHICH THE APPEAL WAS MADE**

The appeal was made against a decision of the Work Permit Board concerning a Term Limit Exemption applied on 2<sup>nd</sup> February 2012 in accordance with the Immigration Law (2011 Revision). I have received a letter from the Board dated 9<sup>th</sup> February 2012 and posted on 10<sup>th</sup> February 2012, where the application for a Term Limit Exemption Permit was refused by the said Board. *Please see copy attached as Evidence EMW1 for your perusal.*

### **REASONS FOR DECISION**

The broad reasons for the decision are contained in the letter mentioned above (EMW1) from the Secretary of the said Board to the appellant, which states: 'The application was refused under provision of Section 48 (1) of the Immigration Law (2011 Revision) as read with Section 44 (3) (a) and Section 48 (10) (e) of the same law, insofar as the applicant has been convicted of an offence or has been fined by an Immigration officer'.

And in the Work Permit Board Appeals Statement filed with the Tribunal and dated 28<sup>th</sup> March 2012. It reads:

- 'The Board is required by Section 44 (3) (a) of the Immigration Law (2011 Revision) ("the Law") to take into account the prospective worker's character and reputation. Additionally, the Board considered Section 48 (10) (e) which states that an application for the grant or renewal of a work permit may be refused on the grounds that the applicant has been convicted of an offence or has been fined by an immigration officer of the rank of Assistant Chief Immigration Officer or above'. The Board was quoting a fine of \$200.00KYD listed on the employee's police record dated 11<sup>th</sup> November 2011.

### **GROUND OF APPEAL**

- 1- The Board has erred on its statement concerning date of appeal filing, which was done on 9<sup>th</sup> March 2012 as evidenced by the Notice of Appeal attached to the Work Permit Board's statement, and not on 22<sup>nd</sup> March 2012 or 9<sup>th</sup> February 2012. *Please see copy attached as Evidence EMW2 for your perusal.*
- 2- The Board states on its Statement that ... "the Board noted that the worker had a Conviction listed on his police record from 2008. The charge is as follows: Possession of a prohibited weapon 20 March 2008 fined \$200 or days imprisonment". The Work Permit Board erred when it omitted to state 30 days imprisonment. *Please see attached as Evidence EMW3 for your perusal.*
- 3- The Board stated "the Board noted there being no prior police records provided with previous applications, as none were previously required for renewals"... "Additionally, prior applications forms did not note any convictions". *The Work Permit Board should note that when requested the police record was submitted right away with the application and*

*that if in previous applications this small fine was not listed it was probably a human err of the agency that helps preparing the application form. We have nothing to hide from the authorities.*

- 4- The Board is quoting provisions of the Immigration Law (2011 Revision) as mentioned above in its" reasons for decision". *Rightfully I feel aggrieved and dissatisfied with the Board's decision in refusing the extension of a one year Work Permit (under term limit exemption category) with distinction. The Board has erred on a point that makes its decision ERRONEOUS IN LAW; therefore UNREASONABLE. I.e. the Board has disregarded Part 1- Introductory [Definitions] of the Immigration Law (2011 Revision) where the meaning ascribed to the word "Offence" in Subsection (a) (b) clearly express 'A term of Once again I should call the attention of this Honourable Court to Part 1- Introductory [Definitions] "Offence", Subsection (a) (b) of the Immigration Law (2011 Revision).imprisonment in excess of six months'.*
- 5- The Board cited provision of Section 44 (3) (a) relating to a worker's character and reputation. *It was too premature to assess it by a simple small fine of \$200.00KYD for a petty possession of a prohibited weapon (a simple knife).*
- 6- The Board cited provision of Section 48 (1) "The Board may refuse an application for a work permit". *While this is its prerogative, the decision should be reasonable and in full accordance with the Law.*
- 7- The Board cited provision of Section 48 (10) "That the applicant has been convicted of an offence".
- 8- The unreasonable Board's decision was appealed Pursuant to Section 15 (1) (2) on the Immigration Law (2011 Revision) on 9<sup>th</sup> March 2012, on 5<sup>th</sup> April 2012 I received acknowledgement of receipt from the said Tribunal, along with a request for submission of Detailed Grounds of Appeal within (twenty-eight) calendar days. However (twenty-one) days later the Tribunal backtracked and dismissed the Appeal due to the Term Limit, without regard that the Immigration Law (2011 Revision) has amendments to offer a two years Term Limit Exemption without distinction or discrimination, it is evidenced by the refusal letter from the said Board acknowledging my right to appeal its decision and giving instructions as to how to do it. ***Please see copy attached here as Evidence EMW4 and EMW5 for your perusal.***
- 9- I have to consider the deprivation of my right to a fair hearing a wrong approach from the Immigration Appeals Tribunal and a very discriminatory decision, because the Term Limit Exemption is a category of a full (one year) work permit (renewable) duly prescribed by the Immigration Law (2011 Revision) and with the right to appeal to the said Tribunal in order to ventilate any grievance in accordance with Section 15 of the said Law. Please read Evidence EMW1 for the easy of reference.
- 10- In Conclusion, I consider the refusal of the Work Permit extension (Renewal) by the Board and the dismissal of the case by the Tribunal, even before considering the Grounds of Appeal, *a denial of justice, erroneous in law and very unreasonable*, and Pursuant to Section 17 (2) of the Immigration Law (2011 Revision) and the General Provisions of the British Common Law I am requesting a Judicial Review of the Whole matter on a point of law to find if the decision of the said Tribunal was adjusted to rights.

EDNA MAY WELLINGTON

