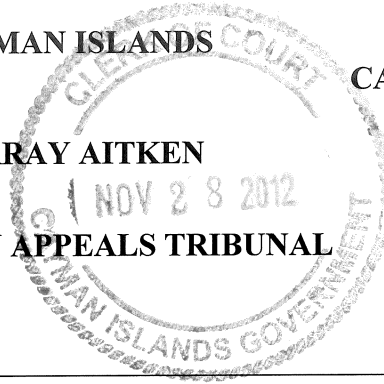
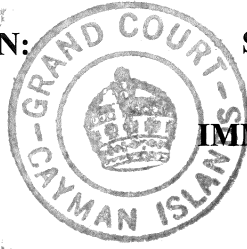


IN THE GRAND COURT OF THE CAYMAN ISLANDS

471
CAUSE NO: OF 2012

BETWEEN: SCOTT MURRAY AITKEN APPLICANT

AND: IMMIGRATION APPEALS TRIBUNAL RESPONDENT



APPLICATION FOR LEAVE TO APPLY FOR JUDICIAL REVIEW

To: the Clerk of the Court, Law Courts, George Town, Grand Cayman

Applicant: Scott Murray Aitken whose address for service is in care of his attorneys Goldfield Cayman Attorneys At Law, P.O. Box 10734, Grand Cayman, KY1-1007, Cayman Islands

**Judgment, order, decision or other proceeding
in respect of which relief is sought:**

The 1st November 2012 decision by the Immigration Appeals Tribunal, to dismiss the Applicant's Appeal against the Caymanian Status and Permanent Residence Board to refuse the grant of Caymanian Status pursuant to section 30 (1) of the Immigration Law (2009 Revision).

Relief Sought;

The Applicant seeks leave to apply to the Grand Court of the Cayman Islands for Judicial Review for;

- i. An order of Certiorari to quash the decision by the Immigration Appeals Tribunal dated 1st November 2012;
- ii. An order of Mandamus directing the Immigration Appeals Tribunal to allow him or his representative to resubmit his appeal against the Caymanian Status and Permanent Residence Board's refusal to grant the Applicant Permanent Residence and directing the Tribunal to reconsider its decision.
- iii. An order of Mandamus directing the Department of Immigration that the Applicant and his spouse Lesley Ann Aitken be allowed to remain and work in the Cayman Islands until his appeal is heard by the Immigration Appeals Tribunal.

- iv. The issuance of an injunction against the Department of Immigration from taking any further action against the Applicant or his spouse until the determination of his appeal by the Immigration Appeals Tribunal.

GROUND ON WHICH RELIEF IS SOUGHT

- i. Whether the Tribunal was wrong in law in holding that: “*no grounds of appeal had been made out pursuant to Sections 15(2) and 16(4) of the Immigration Law (2011 Revision)*” in view of my challenge to the unreasonable point allocation in relation to my occupation, knowledge, skills, funds and salary, and contribution to the community.
- ii. Whether the Tribunal was wrong in law in holding that: “*no grounds of appeal had been made out pursuant to Sections 15(2) and 16(4) of the Immigration Law (2011 Revision)*” in failing to consider the change in circumstances in relation to my employment, and funds and salary. Pursuant to section 16(8) of the Law, the Tribunal may take into account fresh evidence and any change in circumstances that may have arisen in relation to the parties.
- iii. Whether the Tribunal was wrong in law in holding that: “*no grounds of appeal had been made out pursuant to Sections 15(2) and 16(4) of the Immigration Law (2011 Revision)*”. In view of the fact that I have been living and working in the Cayman Islands for 11 years, and based on the criteria set out in the Law under the points systems I should have been allocated more points than what the Board actually allocated me.
- iv. Whether the Tribunal was wrong in law and/or whether it was contrary to the principles of natural justice in failing to consider the information contained in my 1st June 2011 letter.
- v. Whether the Tribunal was wrong in law and/or whether it was contrary to the principles of natural justice in failing to consider my Appeal in its entirety as opposed to; “*reviewing my Notice of Appeal dated 17th January 2011*”.

- vi. Whether the Tribunal was wrong in law and/or whether it was contrary to the principles of natural justice in their failure to reply to my request as to whether it would be appropriate for me to appear in person on the hearing of my appeal, and if not; whether the Tribunal was wrong in law and/or whether it was contrary to the principles of natural justice in failing to advise me as to the time and place when my appeal would be considered.

- vii. Whether the Tribunal's decision to dismiss my appeal is in breach of their duty to be fair and its obligation to observe the principles of natural justice by not recognising my legitimate expectation of a fair hearing and/or due consideration of my appeal against the refusal of my RERC after 11 years living and working in this country.

- viii. Whether the Tribunal is in breach of the rules of natural justice in failing to provide me with a clear exposition of the documents considered in relation to my appeal, along with the grounds and reasons for their findings in relation to my appeal.

Dated the 27th day of November 2012



GOLDFIELD CAYMAN
Attorneys at Law