

IN THE GRAND COURT OF THE CAYMAN ISLANDS
CIVIL DIVISION

CAUSE: G0216 OF 2014

IN THE MATTER OF: Section 29(1) of the Immigration Law (2003 Revision)

AND: IN THE MATTER OF: Section 30(2) and 30(3) of the Immigration Law (2003 Revision)

AND: IN THE MATTER OF: Section 15(2) and 16(4) of the Immigration Law (2013 Revision)

AND: IN THE MATTER OF: Section 17 of the Immigration Law (2013 Revision)

ELFREDA MAY EDWARDS

APPELLANT

AND: CAYMANIAN STATUS AND PERMANENT RESIDENCY BOARD FIRST RESPONDENT

AND: IMMIGRATION APPEALS TRIBUNAL

SECOND RESPONDENT

NOTICE OF MOTION



TAKE NOTICE THAT the Court at the Law Courts, George Town, Grand Cayman will be moved on _____ at _____ or as soon thereafter as counsel can be heard, by counsel for **THE APPLICANT** for the following relief namely :-

1. An Order setting aside the Decision of the Immigration Appeals Tribunal, which decision by the said Tribunal, upheld the Decision of the Caymanian Status and Permanent Residency Board's refusal of the grant of Permanent Residency to the Appellant, on the ground that she failed to achieve the requisite points pertaining to that award; when she was a person by law exempted from assessment by a points system.

BACKGROUND

The proceedings before the Immigration Appeals Tribunal to which this Appeal refers, was conducted over a period of time, commencing with the Tribunal's review of the Appeal Statement dated April 21 2009, which outlined the reasoning behind the decision to refuse the application made by the Appellant. The Tribunal further reviewed the Notice of Appeal filed by the Appellant, and dated February 11th 2009 and the Grounds of Appeal dated May 18th 2010, with additional grounds dated December 30 2013.

The Tribunal noted that insufficient Grounds of Appeal had been established pursuant to section 15(2) and 16(4) (of the Immigration Law (2013 Revision) and accordingly dismissed the Appellants Appeal.

GROUND

It is as a consequence of this decision by the Tribunal, by which the Appellant's Appeal was dismissed, that the Appellant now appeals against same; on the following grounds:

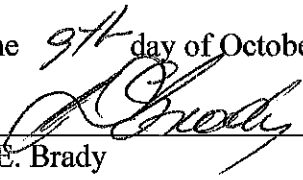
PROCEDURAL IRREGULARITY

2. **THAT** the Tribunal erred in law by dismissing the Appellant's appeal, when having reviewed the Appeal Statement dated April 21 2009, which outlined the reasoning behind the decision by the Caymanian Status and Permanent Residency Board, ("**the Board**") to refuse the application by the Appellant for the grant of Permanent Residency, and the Tribunal having reviewed the Notice of Appeal dated February 11 2009, including detailed Grounds of Appeal dated May 18 2010 and additional Grounds dated 30 December 2013, and deciding that "**no valid grounds of appeal had been made out pursuant to section 15(2) and 16(4) of the Immigration Law 2013 Revision**", and accordingly dismissing the Appeal brought by the Appellant; was unlawfully done in disregard of the provisions contained in Section 30(2) of the Immigration Law 2003 and the current Immigration (Amendment No. 2) Law 2013, ("**the Relevant Laws**") as relates to the mandatory provision whereby it is stated..." **and his period was fifteen years or more and he has applied for permanent residency he shall in the absence of exceptional circumstances be granted permanent residency by the Board**...and no such "exceptional circumstances" was provided by the First Respondent in the first instance nor the Second Respondent upon deliberating the appeal against the First Respondent's decision; as a reason to justify the refusal of the said grant.
3. **THAT** the Immigration Appeals tribunal erred in Law by finding that there was "**no valid grounds of appeal**", when clearly the Caymanian Status and Permanent Residency Board had failed to take into account during their deliberations concerning the Appellant's application for Permanent Residency, the provisions contained in Paragraph Section 30(2) and Section 30(3) of the Relevant Laws, and that this failure resulted in the Appellant being subject to a Points System unlawfully, on both occasions, that the First and Second Respondents severally deliberated on the grant or refusal of the Appellant's application for the grant of Permanent Residency and had the strict provisions of Section 30(2) and 30(3) been applied, would have resulted in the Appellant qualifying for grant of the said Permanent Residency.
4. **THAT** the Tribunal further erred in law when it came to the decision of dismissing the Appellants appeal against the said refusal, by supporting the Caymanian Status and

Permanent Residency Board's finding that the Appellant had been awarded total points of seventy six (76) when the award of the said points, was unlawful and in disregard of the provisions contained in Section 30(3) of the Relevant Laws, which provision(s) mandate the non-applicability of a "points system" ...**for the purpose of assessing the suitability of an applicant for permanent residency**... such as the Appellant was at the time of making the application.

5. **AS SUCH** the Appellant prays that the Decisions imposed by the Caymanian Status and Permanent Residency Board and the Immigration Appeals Tribunal, should be overturned and a rehearing be ordered instead; and the grant of Permanent Residency be awarded to the Appellant.

Dated the *9th* day of October 2014



Dennis E. Brady
Attorney-at-Law

TO: The Clerk of the Court
AND TO: The Chief Immigration Officer
AND TO: The Attorney General

THIS NOTICE OF MOTION was **FILED** by Dennis Brady, Attorney-at-Law for and on behalf of the Applicants whose address for service is that of their said Attorney-at-Law, Trinity Square, Building B-3, Eastern Avenue, P.O. Box 1671, Grand Cayman KY1-1109, Cayman Islands.