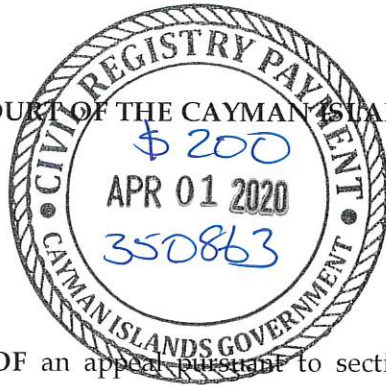


IN THE GRAND COURT OF THE CAYMAN ISLANDS  
CIVIL DIVISION



CAUSE NO. 64 OF 2020

IN THE MATTER OF an appeal pursuant to section 79(1) of the Labour Law (2011 Revision)

AND IN THE MATTER OF GCR Order 55

BETWEEN: MARSH MANAGEMENT SERVICES (CAYMAN) LTD.

Appellant

AND: NATHANIEL CLAYTON PRICE

Respondent



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NOTICE OF ORIGINATING MOTION

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TAKE NOTICE that the Court will be moved at the Law Courts, George Town, Grand Cayman on the \_\_\_\_\_ day of \_\_\_\_\_ 2020 at \_\_\_\_\_, or so soon thereafter as counsel can be heard, by counsel on behalf of Marsh Management Services (Cayman) Ltd (the **Appellant**) on an appeal pursuant to section 79(1) of the Labour Law (2011 Revision) (the **Labour Law**) against the whole of the decision of the Labour Appeals Tribunal, reference 6/19, dated 9 March 2020 (the **LAT Decision**) whereby it was determined that:-

- (a) the Labour Tribunal, in its decision dated 2 April 2019 (the **Labour Tribunal Decision**), failed correctly to apply the statutory definition of 'redundancy' under the Labour Law when the Labour Tribunal determined that the Respondent was not unfairly dismissed by the Appellant;
- (b) the Respondent was unfairly dismissed by the Appellant; and
- (c) the Respondent is entitled to an award of US\$149,423.02 against the Appellant for unfair dismissal (the **Award**),

**FOR THE FOLLOWING ORDERS AND DETERMINATIONS -**

1. An order that the LAT Decision be set aside;
2. A determination that the Appellant's termination of the Respondent's employment was not unfair;
3. An order that the Award be set aside;
4. In the alternative to paragraph 3, should the Court determine that the Respondent was unfairly dismissed (which is denied), a determination by this Court of the appropriate amount, less than the Award, to which the Respondent is entitled, or, alternatively, an order remitting the matter to the Labour Tribunal for the determination of an appropriate award; and
5. An order that the costs of the appeal be paid by the Respondent to be taxed if not agreed.

**GROUND OF APPEAL**

**AND FURTHER TAKE NOTICE** that the grounds of this appeal are as follows:

1. The LAT erred in law by failing properly to construe and to apply the meaning of the term '*redundancy*', as defined at Part I, section 2 of the Labour Law, when it determined that the Respondent was not dismissed by reason of redundancy.
2. The LAT erred in law by failing to consider the question whether, if the Respondent's dismissal was not by reason of redundancy, then, as determined by the Labour Tribunal, the Respondent's dismissal was for '*some other substantial reason of a kind which would entitle a reasonable employer to dismiss an employee holding the position which the employee held*' within the meaning of section 51(1)(f) of the Labour Law.
3. In determining whether the Respondent's dismissal was unfair, this Court should disregard the statements made by the LAT at paragraphs 27 to 30 of the LAT Decision regarding the applicability to the Cayman Islands of the guidance

enunciated by the UK's Employment Appeals Tribunal (EAT) in *Williams v Compare Moxam Ltd* [1982] ICR 156, since:-

- (a) In any event, the LAT's statements form no part of its reasons for decision; and
  - (b) The LAT, in making the statements, ignored, or misunderstood the legal and factual context within which the guidance given in *Williams v Compare Moxam Ltd* was enunciated, and misdirected itself in its determination that the guidance given by the EAT, derived from a specific legislative and factual context, can be transplanted to the Cayman Islands without regard to the different legislative and factual context in the Cayman Islands, and the facts and circumstances of the specific case.
4. The LAT in making the Award failed to have regard to, or to give any sufficient weight to any of the factors set out in section 55(2) of the Labour Law which a Labour Tribunal shall have regard to in making an award of compensation for unfair dismissal, or to the facts of the case as determined by the Labour Tribunal.

Dated the 31<sup>st</sup> day of March 2020



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**Mourant Ozannes**  
**Attorneys-at-Law for the Appellant**

TO: The Clerk of the Court

AND TO: The Respondent  
c/o Campbells  
Floor 4, Willow House  
Cricket Square  
Grand Cayman, KY1-9010

AND TO: The Chairman  
Labour Appeals Tribunal  
Ministry of Education, Employment and Gender Affairs  
2<sup>nd</sup> Floor, Government Administration Building  
133 Elgin Avenue  
Grand Cayman, KY1-9000

THIS NOTICE OF ORIGINATING MOTION was filed by Mourant Ozannes, on behalf of the Appellant, whose address for service is 94 Solaris Avenue, Camana Bay, PO Box 1348, Grand Cayman KY1-1108, Cayman Islands (Ref:8044761/77712184/1).