

**COMMONWEALTH OF THE BAHAMAS
IN THE SUPREME COURT
COMMON LAW & EQUITY DIVISION
2021/COM/lab/00051**

BETWEEN

PIETRO BURROWS

1st Plaintiff

and

HOWARD GIBSON

2nd Plaintiff

and

RODERICK SMITH

3rd Plaintiff

and

ARLINGTON ROLLE

4th Plaintiff

and

RAYMOND ROLLE

5th Plaintiff

and

ISAAC ESCAMAST

6th Plaintiff

and

DERRICK HARVEY

7th Plaintiff

and

TERRANCE STUBBS

8th Plaintiff

and

DANIE RAHMING

9th Plaintiff

and

TIKO ROLLE

10th Plaintiff

and

TAVERO ROLLE

11th Plaintiff

AND

**SCUBA BIMINI WATER TAXI BUS &
CONSTRUCTION CO. LIMITED**

Defendant

Before: DEPUTY REGISTRAR *EDMUND TURNER*

Appearances: Mr. Cyril Ebong for the Plaintiff
No appearance on behalf of the Defendant

Hearing Dates: 19th July 2022, and 15th November 2022.

J U D G M E N T

Deputy Registrar EDMUND TURNER:

Brief Introduction

1. Please note that in this matter there was no appearance at all by Counsel for the Defendant, who were served accordingly. It was specifically noted by Counsel for the Plaintiffs that every document produced in this matter was served upon the Defendant's Registered Office, i.e. Seymour and Co.
2. Affidavits of service filed on April 26th 2022 and June 8th 2022 clearly indicate that a Notice of Appointment of Assessment of Damages was served on Seymour and Co on 24th May 2022, as well as a Notice of Appointment for Assessment of Damages filed on 30th December 2021.
3. The Defendant also failed to enter an appearance in the appropriate time provided and as a result, Judgment in Default of Appearance was entered for and on behalf of the Plaintiffs and the matter is now being Assessed for Damages.

Termination of Employment with Notice

3. Reference is made to Part VII of the Employment Act 2001, which notes that the minimum period of notice required to be given by the employer to terminate the contract of employment of an employee shall be, i.e.:

b). Twelve months or more-

- i. Two weeks' notice or two week's basic pay in lieu of notice; and
- ii. Two weeks' basic pay (or a part thereof on a pro rata basis) for each year up to twenty-four weeks.

- c). Where the employee holds a supervisory or managerial position-
 - i. One month's notice or one month's basic pay in lieu of notice, and
 - iii. One month's basic pay (or a part thereof on a pro rata basis) for each year up to forty-eight weeks.

The aforementioned was taken from the text book written by **the late Emmanuel Enebeli Osadebay JA., i.e. Labour Law in The Bahamas.**

Pietro Burrows

1. Mr. Pietro Burrows gives evidence that he was an employee with the Defendant, Scuba Bimini Water Taxi Bus and Construction Co. Ltd. from 21st January 2019 to 28th November 2019. He notes that during this period he worked as an operator and his salary was \$250.00 per day. He gave evidence to the fact that he worked seven (7) days a week between the hours of 6:00 am and 6:00 pm., with one hour for lunch.
2. He calculated his vacation leave to be five (5) weeks which was deducted from the overtime hours worked from 21st January 2019 to 28th November 2019. Pietro's evidence is that he worked every day more than eleven hours a day, and he was not paid any overtime hours worked beyond the normal working hours.
3. In addition, it is being argued that Pietro was not paid the double time pay for his one day off or time and one half the sum of his salary for the second day off as mandated by law. Pietro Burrows argues that the Defendant owes him the sum of \$76,500.00, i.e. the same calculated by M.E. Lockhart Accounting.
4. After calculating from the pay-sheet provided, factoring in National Insurance deductions, etc. the actual figure of **\$65,527.55** was arrived at.

DERRICK HARVEY

5. Mr. Harvey notes he was employed with the Defendant from 17th May 2019 and continued to work with the Defendant until 28th November 2019. During this time period he notes that he worked as an operator with a salary of \$250.00 per day. He also noted that he worked seven (7) days a week between the hours of 6:00

am and 6:00 pm, with one hour for lunch.

6. At the time his vacation leave of five (5) weeks, was deducted from the overtime hours worked from 17th May 2019 to 28th November 2019. He noted that in this time period, he worked every day for more than eleven hours, and the Defendant did not pay for overtime_beyond the normal working hours of 8 hours a day.
7. He also alleges that he was not paid double time pay for one day off, or time and one half for the second day off. It is the argument of Mr. Harvey that the Defendant owes him \$46,500.00, however upon my calculation, it is seen that some **\$83,378.71** is owing to Mr. Derrick Harvey by the Defendant to Mr. Harvey.

ISAAC ESCAMAST

8. Isaac Escamast gave evidence that he commenced employment with the Defendant on 9th April 2019 up until 10th December 2019. He was employed as a mechanic and his daily salary was \$250.00 per day. For the duration of employment with the Defendant he worked seven (7) days a week between 6:00 am and 6:00 p.m. Of significance is the fact that Mr. Escarmast notes he signed a work schedule each day prior to commencing work. His vacation leave at the time was calculated to be five (5) weeks. He gave evidence that from 9th April to 10th December 2019, he worked for the Defendant every day for more than eleven hours a day. He noted the Defendant did not pay for overtime work beyond the normal working hours.
9. In the final analysis, Isaac Escamast alleges that he is owed \$58,375.00, however, upon calculating the amount owing in pay taken from the pay-sheet after National Insurance would have been deducted, the figure of **\$65,211.27**.

Roderick Smith

10. Roderick Smith gave evidence that he was an employee of the Defendant from 17th December 2018 to 1st December 2019. He was employed as an operator

making some \$250.00 per day. For the duration of his employment he worked seven (7) days per week between 6:00 am and 6:00 pm. Mr. Smith noted that each day he attended work, he would sign the attendance book. He had accumulated five (5) week's from 17th December 2018 to 1st December 2019.

11. In addition to the above, he also notes that during this period he work for the Defendant every day for more than eleven hours a day. He believes that he is owed some \$82,125.00; When the Deputy Registrar calculated after deduction of National Insurance contributions, the figure of **\$82,085.00** was arrived at.

Arlington Rolle

12. Mr. Arlington Rolle gave evidence that he commenced employment with the Defendant on 17th May 2019 up until 21st November 2019. He was employed as a operator and his daily salary was \$250.00 per day. For the duration of employment with the Defendant he worked seven (7) days a week between 6:00 am and 6:00 p.m. Of significance is the fact that Mr. Rolle notes he signed a work schedule each day prior to commencing work. His vacation leave at the time was calculated to be five (5) weeks. He gave evidence that from 17th May to 21st November 2019, he worked for the Defendant every day for more than eleven hours a day. He noted the Defendant did not pay for overtime work beyond the normal working hours.

13. In the final analysis, Mr. Arlington Rolle alleges that he is owed \$42,688.00, however, upon calculating the amount owing in pay taken from the pay-sheet after National Insurance would have been deducted, the figure of **\$46,040.93** was arrived at.

Raymond Rolle

14. Mr. Raymond Rolle gave evidence that he commenced employment with the Defendant on 11th November 2018 up until 15th December 2019. He was employed as an operator and his daily salary was \$250.00 per day. For the duration of employment with the Defendant he worked seven (7) days a week between 6:00 am and 6:00 p.m. Of significance is the fact that Mr. Rolle notes he signed a work

schedule each day prior to commencing work. His vacation leave at the time was calculated to be five (5) weeks. He gave evidence that from 11th November 2018 to 15th December 2019, he worked for the Defendant more than eleven hours a day. He noted the Defendant did not pay for overtime work beyond the normal working hours.

15. In the final analysis, Mr. Raymond Rolle alleges that he is owed \$94,375.00, however, upon calculating the amount owing in pay taken from the pay-sheet after National Insurance would have been deducted, the figure of **\$66,944.54** was arrived at.

Tiko Rolle

16. Mr. Tiko Rolle gave evidence that he commenced employment with the Defendant on 11th November 2018 up until 21st November 2019. He was employed as an operator and his daily salary was \$250.00 per day. For the duration of employment with the Defendant he worked seven (7) days a week between 6:00 am and 6:00 p.m. Of significance is the fact that Mr. Rolle notes he signed a work schedule each day prior to commencing work. His vacation leave at the time was calculated to be five (5) weeks. He gave evidence that from 11th November 2018 to 21st November 2019, he worked for the Defendant more than eleven hours a day. He noted the Defendant did not pay for overtime work beyond the normal working hours.

17. In the final analysis, Mr. Raymond Rolle alleges that he is owed \$95,500.00, however, upon calculating the amount owing in pay taken from the pay-sheet after National Insurance would have been deducted, the figure of **\$55,443.57** was arrived at.

Tavero Rolle

18. Mr. Tavero Rolle gave evidence that he commenced employment with the Defendant on 11th November 2018 up until 21st November 2019. He was employed as a driver and his daily salary was \$200.00 per day. For the duration of employment with the Defendant he worked seven (7) days a week between 6:00

am and 6:00 p.m. Of significance is the fact that Mr. Rolle notes he signed a work schedule each day prior to commencing work. His vacation leave at the time was calculated to be five (5) weeks. He gave evidence that from 11th November 2018 to 21st November 2019, he worked for the Defendant more than eleven hours a day. He noted the Defendant did not pay for overtime work beyond the normal working hours.

19. In the final analysis, Mr. Raymond Rolle alleges that he is owed \$76,000.00, however, upon calculating the amount owing in pay taken from the pay-sheet after National Insurance would have been deducted, the figure of **\$47,954.00** was arrived at.

20. Please note, based on the evidence adduced at Court, there has been no sworn in evidence relating to Howard Thompson, or Danie Rahming. As a result, there could be no evidence led regarding figures owed to them as no such evidence exists in evidence.

Terrance Stubbs

21. Mr. Terrance Stubbs gave evidence that he commenced employment with the Defendant on 21st January 2019 to 25th December 25th 2019. He was employed as an operator and his daily salary was \$250.00 per day. For the duration of employment with the Defendant he worked seven (7) days a week between 6:00 am and 6:00 p.m. Of significance is the fact that Mr. Stubbs notes he signed a work schedule each day prior to commencing work. His vacation leave at the time was calculated to be five (5) weeks. He gave evidence that from 1st June 2018 to 25th December 2019, he worked for the Defendant more than eight hours a day. He noted the Defendant did not pay for overtime work beyond the normal working hours.

22. In the final analysis, Mr. Terrance Stubbs alleges that he is owed \$40,0500.00, however, upon calculating the amount owing in pay taken from the pay-sheet after National Insurance would have been deducted, the figure of **\$63,708.13** was arrived at.

Interest

23. The law relating to the payment of interest on judgment debts is the Civil Procedure (Award of Interest) Act, 1992. Section 2 of the Civil Procedure (Award of Interest) Act provides that:

“2. (1) Every judgment debt shall carry interest at such rate as shall be prescribed by rules of court made by the Rules Committee constituted by section 75 of the Supreme Court Act levied under a writ of execution on such judgment:

Provided that nothing in this section shall apply in relation to any Judgment debt upon which interest is payable as of right, whether by virtue of an agreement or otherwise.

24. The rate of interest payable on judgment debts is provided for under Rule 2 of the Civil Procedure (Rate of Interest)Rules, 2008, which provides that:

a. “For the purpose of section 2(1) of the Civil Procedure (Award of Interest)Act, the rate of interest is the prime rate of the Central Bank plus two per per centum per annum.”

25. As of the date, the current prime rate of the Central Bank as published on its website at <https://centralbankbahamas.com> is 4.25% per annum. As a general rule, interest runs from the time the judgment is pronounced-the incipitur rule as was recently affirmed by the Privy Council in **Rajesh Ramsarran v. The Attorney General of Trinidad and Tobago** Privy Council Appeal No. 18 of 2004.

26. Accordingly, interest payable on the costs as taxed is 4.25% per annum plus two per centum per annum which totals 6.25% per annum from the date of the Order being given by Justice Fraser, until payment in full.

Name	Damages Figure	Interest at 6.25%
Pietro Burrows	\$65,527.55	\$69,623.02
Roderick Smith	\$82,085.00	\$86,180.47
Arlington Rolle	\$46,040.93	\$50,135.77
Raymond Rolle	\$66,944.54	\$71,040.01
Isaac Escamast	\$65,211.27	\$69,306.74
Derrick Harvey	\$83,378.71	\$87,474.18
Terrance Stubbs	\$63,708.13	\$67,803.77
Tiko Rolle	\$55,443.57	\$59,539.04
Tavero Rolle	\$47,954.00	\$52,049.47

Total \$613,152.47

27. As a result, the sum of **\$613,152.47** is owing to the Plaintiffs as a group collectively.

28. Pursuant to the Judgement in Default of Defence filed on 7th December 2021, damages were to be assessed, and cost to be taxed if not agreed. Pursuant to the new Civil Procedure Rules, when the decision is given, there is to be a determination re costs at the same time, **rule 72.8(1)**. As a result, the costs are to be paid by the Defendant to Counsel for Plaintiffs by 30th July 2023, in the amount of **\$50,000.00**. The same being reduced due to obvious errors in calculations done from the relevant pay sheet provided, but also considering the number of Plaintiffs involved.

Edmund Turner
Deputy Registrar
29th March 2023

