

Palm Cay ordered to pay employee for unfair firing

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A SUPREME Court judge has ordered a local gated community development to pay one of its employees almost \$4,000 for unfairly firing her by two text messages while she was on vacation almost three years ago.

Justice Ian Winder ordered Palm Cay Development Ltd to pay Peggy Burrows \$3,837.26 to account for the two weeks of notice pay and a basic award of seven and a half weeks' pay for unfairly dismissing her on July 20, 2015.

According to the ruling, Palm Cay claimed Ms Burrows was terminated after her employers felt she abandoned her job by going on an unauthorised vacation, despite knowing the correct procedure, and later could not be located despite their best efforts.

However, Justice Winder said he "preferred" Ms Burrows' version of events, that she verbally applied for and consequently received verbal confirmation to go on vacation from management, while simultaneously declaring that Palm Cay Development's sworn testimony did not correspond with its own evidence.

Ms Burrows, the plaintiff, started working with Palm Cay on January 10, 2013, as a marketing assistant, and was employed for some two years and six months until her termination.

The evidence was that on July 9, 2015, she spoke with her supervisor, Richard Browning, and asked for the following week off to attend an emergency concerning her bedridden mother, whose caretaker would not have been there.

According to the ruling, Ms Burrows said she completed a vacation leave form



PALM Cay - where Peggy Burrows worked as a marketing assistant prior to her dismissal.

and was verbally advised by Mr Browning that her vacation was approved for the period July 13-17, 2015.

However, on July 16, 2015, while she was on vacation, Ms Burrows received a text message on her cell phone from Palm Cay minority shareholder Paul Cummins, purporting to terminate her employment. The text message said: "Peggy don't come back, thanks."

The following day, Ms Burrows received another text message from Mr Cummins, stating: "Don't come back, this is terrible."

On the day she was due to return to work, July 20, 2015, Ms Burrows delivered a letter to Mr Cummins seeking clarification on the text messages she received. However, she got no response.

In September of that year, she later took legal action against Palm Cay. She charged that Palm Cay unfairly dismissed her and was in breach of Sections 34 and 35 of the Employment Act.

She further claimed that Palm Cay failed to allow her the opportunity to confront her accusers or to understand the nature of any questionable conduct or wrongful actions imputed to her, and that

her employers failed to allow her to state her case or offer any justification for any alleged wrongdoing or at all.

The claim was originally cast against Mr Cummins, as the second defendant in the matter. However, it was later ordered that he be struck from the action as a defendant by a court order dated November 24, 2016.

At trial, Ms Burrows was the only witness in her case while Mr Browning gave evidence on behalf of Palm Cay.

Palm Cay, in giving its defence, denied that Ms Burrows was on vacation. The company claimed that on or about July 6, 2015, it was observed that she was not at work as required and could not be located despite officials' "best efforts".

The defendants further claimed that Ms Burrows was acquainted with the company's vacation policy, and claimed in the past, she had completed the necessary documentation to get vacation leave, but failed to do so in this instance. They also argued that in the present case, Ms Burrows failed to obtain approval for vacation as well as failed to inform any or all necessary parties in the company of her desire to be absent from work.

according to the ruling, Mr Browning's evidence was that he was unaware Mr Cummins had instructed Ms Burrows not to return.

Nonetheless, Justice Winder disagreed with Palm Cay's case, and stated that having observed the witnesses as they gave evidence, he preferred Ms Burrows' version of events rather than Palm Cay's.

Justice Winder noted that Mr Cummins was a significant owner of Palm Cay Development Ltd, holding 49 per cent of its shares, and apparently being one of two shareholders.

Justice Winder further noted that Mr Browning sought to "diminish" Mr Cummins' involvement by indicating in his evidence that "Mr Cummins is a 49 per cent shareholder of Palm Cay Development Limited, he has no standing in terms of directorship, signatory or management operation of business. He's purely a minor shareholder..."

According to the evidence, however, Justice Winder noted that Mr Cummins' winter home was next door to the work premises and that he "was always on property and in the office", unlike the other shareholder who was fixed in the United Kingdom.

Justice Winder thus said notwithstanding Mr Browning claiming that Mr Cummins had no involvement in the business, he admitted that Mr Cummins was present on property, his interest in the business was known to staff and that he had email, telephone, and WhatsApp contacts for Ms Burrows.

Justice Winder further found that Palm Cay's case did not correspond with its own evidence. Justice Winder noted that while Palm Cay claimed Ms Burrows abandoned the job on July 6, 2015, but the

evidence demonstrates she was at work during the course of that week.

Justice Winder also noted that Mr Browning indicated that the relevant period Ms Burrows was missing was July 13-18, 2015, although he wasn't on site during that week.

Additionally, the judge noted that according to Palm Cay's National Insurance Board (NIB) filings, they indicated that "Peggy went on vacation without communicating with anyone for two weeks..." but her last day at work was stated in the NIB filings as June 26, 2015.

Justice Winder also accepted that Ms Burrows applied for vacation orally and by submitting Palm Cay's vacation application form. He also said he accepted that she received a verbal confirmation.

However, Justice Winder said what apparently happened was that during the week Ms Burrows was off from work, issues arose concerning certain transactions that caused Palm Cay to be "dissatisfied with her performance".

Mr Cummins thus expressed the view that Ms Burrows ought not to return, Justice Winder suggested.

Thus, the judge said he was "satisfied" that Ms Burrows was unfairly dismissed. In calculating her basic award, Justice Winder noted that she would be entitled to a total of nine and a half weeks' pay, as well as an accrued salary of \$768, which he said is also due.

"I therefore give judgment for the plaintiff in the total amount of \$3,837.26," Justice Winder said. "The plaintiff shall have her reasonable costs to be taxed if not agreed."

Ms Burrows was represented by attorney Sonia Timothy.

MAN GUILTY OF SHOOTING

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A SUPREME Court jury has found a man guilty of manslaughter for the fatal shooting of another man on Independence Day last year.

The jury discharged Dino Smith of murder, but found him guilty 9-3 of manslaughter for causing the death of Leandro Sherman Deveaux on July 10.

The Windsor Lane resident will be sentenced on June 6.

Smith stood trial before Justice Cheryl Grant-Thompson from February 26 to April 24 concerning Deveaux's death. According to initial police reports, shortly after noon on July 10, Deveaux was on Fowler Street, off East Street sitting in an open yard with a group of people when a black Nissan Teana drove past,

heading west.

The car turned around, heading east, and a gunman got out of the vehicle on the rear passenger's side and shot Deveaux before getting back into the vehicle and speeding off in an unknown direction.

Deveaux was taken to hospital in a private vehicle, where he died of his injuries shortly after his arrival.

Smith is represented by attorney David Cash.

ARMED ROBBERS HUNTED BY POLICE

POLICE are looking for the suspects behind two armed robberies that happened Saturday morning.

In the first incident, shortly after 8am, a man was sitting in his vehicle just in front of his home on

Denver Street when he was approached by three men, one armed with a firearm, who robbed him of cash before running away.

In the second incident, shortly after 11am, a man armed with a firearm,

entered a restaurant on Cox Way off East Street, held employees at bay and robbed the restaurant of an undetermined amount of cash, before fleeing on foot.

Investigations are ongoing.



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Assistant Athletic Trainer, responsible for assisting the Athletic Trainer with all phases of the daily operations in the Athletic Training Room and services needed to cover the eight athletic teams at UB. Duties and responsibilities include assisting in scheduling and administration of student-athlete pre-participation physical exams; evaluating athletic injuries; treating athletic injuries; providing counseling and education to student athletes, coaches, and parents dealing with athletic injuries; enforcing code of conduct and rules for athletic training facilities and equipment; and assisting with recordkeeping and documentation. Required qualifications include a Bachelor's Degree in Athletic Training, Kinesiology, Sports Medicine, Sports Science or other related field; Board Certification; and two (2) or more years of experience.

Sports Information Officer, responsible for the production, presentation, distribution, and collection and archival of information pertaining to University Athletics. Duties and responsibilities include creating and distributing all sports related information to local, provincial, national, university and other media sources; cultivating key media contacts for the department; facilitating interviews and press conferences, write and prepare press releases and other promotional material/content for various media; liaising regularly with the Office of University Relations, varsity coaches and colleagues at other universities and athletic organizations and assisting with managing and updating the Athletic Department's website. Required qualifications include a Bachelor's degree (Master's degree is preferred) in Journalism/Broadcast, Communications, Public Relations and demonstrated experience with software sufficient to support media publications and relevant athletic events' statistical calculation, including but not limited to, Adobe in Design, Adobe Photo Shop, Illustrator and Stat Crew/Dakstats software.

Detailed position announcements are available online at: <http://www.ub.edu.bs/about-us/career-opportunities/staff/>.

Interested applicants should submit the following to the Human Resources Department via hrapply@ub.edu.bs by **Wednesday, 9th May, 2018**:

- A cover letter of interest highlighting work experience and accomplishments relevant to the position;
- Completed UB Employment Application Form (www.ub.edu.bs/wp-content/uploads/2017/01/Application-for-Employment-Staff.pdf)
- Current curriculum vitae or resume;
- Copies of relevant qualifications and certificates;
- Copy of the relevant pages of a valid passport showing passport number, photo identification and expiration date;
- Copy of N.I.B. Card;
- At least three (3) written, professional references.