

SAINT VINCENT AND THE GRENADINES

THE EASTERN CARIBBEAN SUPREME COURT
IN THE HIGH COURT OF JUSTICE
(CIVIL)

CLAIM NO SVGHCV2004/0333

BETWEEN:

CLAYTON JAMES

Applicant

AND

1. THE PUBLIC SERVICE BOARD OF APPEAL
THROUGH ITS MEMBERS:-
CECIL JOHN
ELIZABETH BOYEA
REGINALD TELEMAQUE
2. THE COMMISSIONER OF POLICE
3. THE ATTORNEY GENERAL OF SAINT VINCENT
AND THE GRENADINES

Respondents

Before: Master Pearletta Lanns

In Chambers

Dated the 19th day of March 2008

Entered the day of 2008

Appearances:

Ms Nicole Sylvester and Ms Patina Knights for Applicant

Ms Joselle Jack and Ms Michele Fife for the Respondents

ORDER ON ASSESSMENT OF DAMAGES

THIS MATTER having come on for assessment of damages and costs on the 17th day of March 2008; **AND UPON IT APPEARING** that Counsel for the Defendants are in agreement with the Claimant's proposed assessment of a Basic Award of \$3,694.49 and Compensatory Award in respect to Loss of Earnings of \$18, 234.11; **AND THE COURT** noting that the only outstanding

issue relates to the Manner of Dismissal; **AND UPON READING** the Witness Summary of Clayton James filed herein on 21st December 2007 and documents exhibited thereto; submissions of counsel and authorities in support thereof including the judgment of Rawlins, J.A. in *The Epicurean Limited v Madeline Taylor* [2003] Civil Appeal No 4 of 2003 [Antigua and Barbuda]; **AND UPON HEARING** counsel for the parties herein; **AND THE COURT** noting that the Applicant's claim form or statement of claim does not contain a claim in respect to **Manner of Dismissal** which is akin to **Exemplary Damages**; **AND THE COURT** being of the opinion that the claim for **Manner of Dismissal** runs afoul of CPR 8.6 (3) which provides that "a claimant who seeks aggravated damages and /or exemplary damages must say so in the claim form" **AND TAKING** guidance from the Judgment of Barrow J.A. in *Dominica Agricultural and Industrial Development Bank v Mavis Williams* [2005] Civil Appeal No. 20 of 2005 [Dominica] that deals in part with the principles that apply to claims that were not included in the claim form or statement of claim but introduced for the first time in documents in support of the assessment **DO TH ORDER** as follows:

1. The Defendants shall pay to the Claimant a lump sum of \$21,928.49 representing Basic Award of \$3, 694.49; Compensatory Award for Loss of Earnings of \$18, 234.00.
2. There shall be no award for manner of dismissal.
3. The Defendants will pay the Claimant's prescribed Costs in the sum of \$6,578.55.
4. This judgment attracts interest at the rate of 5% per annum from the date of judgment (19th March 2008) to date of payment.

By Order


Pearlitta E. Lanns

MASTER