



VIRGIN ISLANDS

LABOUR CODE, 2010
(No. 4 of 2010)

IN THE LABOUR ARBITRATION TRIBUNAL

Case No. BVILAT2025/013

BETWEEN

JAMIEL JN PIERRE

COMPLAINANT

AND

CREATIVE BUILDERS LTD.

RESPONDENT

REASONS FOR DECISION

BEFORE: **Samuel Jack Husbands**, Chairperson, sitting as a single arbitrator

TRIAL ON: The 26th day of June 2026

MADE ON: The 1st day of July 2026

IN ATTENDANCE: (1) The Complainant
(2) Phil-Ann Stevens, Finance Director of the Respondent
(3) Anselmo Stevens, shareholder of the Respondent

ADDITIONALLY: (4) Malisa Ragnauth-Mangal, as Secretary to the Tribunal

1. The Respondent carries on business of a construction company. It employed the Complainant as a carpenter under a contract of employment dated 11 September 2024. The employment commenced on 22 October 2024. The Complainant was terminated on 21 March 2025. His rate of pay was \$17.50 per hour for a daily rate of \$140. He was treated as a supervisor. It was accepted he was at first on probation but at the date of his termination his probationary period had expired.
2. The Complainant claims he was unfairly terminated. On 20 March 2025 he was called into the office by Mr Stevens who informed him things were not working out but they could

remain as friends. No termination letter was provided during this meeting. He concluded he was terminated with immediate effect by oral notice. He was not handed the termination letter dated 21 March 2025 until some days later, on 26 March or possibly later. It stated he would be terminated with immediate effect. The reason for the termination was his failure to meet the conditions set during his probationary period. He was paid his wages due and an amount for unused vacation time.

3. The Respondent did not comply with the requirements of section 103 of the Labour Code for the termination of employees for unsatisfactory performance. The Complainant gave evidence of work difficulties from 3 February to 19 March 2025. His summary did not attribute subpar performance to himself or disclose any trigger for section 103(5) or, in any event, any steps taken by the Respondent in compliance with the section. In his oral closing statement after at the end of the trial the Complainant said that Mr Stevens had spoken to him once about not completing his duties. No details of that conversation are in evidence nor were there any details of what instructions if any were given to correct the unsatisfactory performance. The Respondent did not file witness statements. No evidence was given on its behalf.
4. The relevant subsections of section 103 provide as follows:
 - (5) Where, after the probationary period has expired, the employee is not performing his or her duties in a satisfactory manner, the employer may give him or her a written warning to that effect.
 - (6) If the employee, after he or she is warned pursuant to subsection (5) and in compliance with subsection (7), does not, during the following three-month period, demonstrate that he or she is able to perform and has performed duties in a satisfactory manner, the employer may terminate the employment contract.
 - (7) An employer shall not terminate the employment of an employee for unsatisfactory performance unless the employer has given the employee written warning pursuant to subsection (5) and appropriate instructions to correct the unsatisfactory performance and the employee continues to perform his or her duties unsatisfactorily for a period of three months.
5. The Complainant filed a Dispute Claim Form with the Labour Commissioner on 1 April 2025. He claimed compensation. In his Reply he set out his loss as comprising \$5,600 for loss of wages for two months and \$250 for the cost of a conditional work permit. The Respondent conceded that through an oversight he was not paid salary in lieu of notice. In her post-trial oral closing submissions Mrs Stevens stated the notice period would have been two weeks. This corresponds to the interval between pay days.
6. In any event, the Respondent should in addition to the payment of wages in lieu of notice have had regard to section 81(1) of the Code and provided a valid and fair reason for the termination connected with the Complainant's capacity or conduct or with the operational requirements of the business. There was also a requirement in section 81(2) to give the Complainant a fair opportunity to defend himself.

7. I find that the Complainant was unfairly terminated and is entitled to compensation. He limited his compensation to the period of two months after his termination. He claims he was prevented by the Respondent from obtaining the permit necessary to seek another job, i.e. a conditional work permit. What the Complainant probably meant was that he was not given a certificate of employment under section 95 of the Code. He claims he could not resume work until the Department of Immigration (or the Department of Labour) was in a position to issue a conditional work permit. He therefore suffered loss as a result.
8. I am unable to find that there was deliberate attempt by the Respondent to prevent the grant of a new work permit to the Complainant so that the Complainant could work again. The conditional permit was issued on 17 June 2025 after the intervention of the Labour Department. The Complainant then did not obtain the grant of an unconditional work permit and full-time work until 6 months after termination.
9. As stated above, the Complainant limits his claim to the equivalent of two months' wages. He was not tested on what steps he took to find new work. I accept that he may even have taken longer than two months to get any work. I find the period of two months is entirely reasonable.
10. I therefore assess the Complainant's loss at two months' or 9 weeks wages. His last regular pay for a complete pay period was \$1,200 and his statutory deductions totalled \$143.43 as evidenced by his payslip dated 12 March 2025. I would treat his average regular pay as \$1,400 for a two-week period at the rate of \$140 per day. I calculate his loss of wages for the period of 9 weeks wages from 21 March to 23 May 2025. I award the Complainant the sum of \$5,654.57.
11. I should add that the parties did not recommend the appointment of arbitrators or file the required arbitrator's consents to act. In order to proceed quickly to dispose of the complaint I heard the matter without the assistance of a panel. This is not a step that would ordinarily be taken or encouraged.

By Order

Labour Arbitration Tribunal



Samuel Jack Husbands
Chairperson

