

No. 53

Application for Leave to Apply for Judicial Review (0.53, r.3)

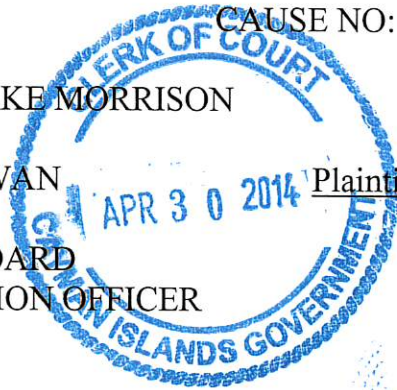
IN THE GRAND COURT OF THE CAYMAN ISLANDS

CAUSE NO: 63 OF 2014

BETWEEN: BIRDY EVADNEY BLAKE MORRISON

AND: SHERRI BODDEN-COWAN

AND: THE WORK PERMIT BOARD
THE CHIEF IMMIGRATION OFFICER



Plaintiffs/Applicants

Respondents

APPLICATION FOR LEAVE TO APPLY FOR JUDICIAL REVIEW


To the Clerk of the Court, Law Courts, George Town, Grand Cayman

Name, address and description of applicant(s)	The Applicant, Birdy Evadney Blake Morrison of 17 Powell Smith Drive, West Bay, Grand Cayman, Cayman Islands, a citizen of Jamaica, having appealed to the Immigration Appeals Tribunal against the refusal of an application for the Grant of Permanent Residency by the Caymanian Status and Permanent Residency Board pursuant to Sections 15 and 16 of the Immigration Law (2012 Revision) as read with section 30 (3) of the Immigration Law 2012 Revision and the Second Schedule of the Immigration Regulations (2010 Revision) and such appeal having been refused having applied for a final non renewable work permit with Sherri A. Bodden Cowan for a period not exceeding twelve months pursuant to Section 52 (9) of the Immigration Law 2013 Revision and upon such application the Chief Immigration Officer having granted a final 90 day work permit pursuant to Section 52 (8) of the Immigration Law (2013) Revision as read with the Immigration Amendment (NO. 2) Law 2013 AND Sherri A. Bodden Cowan of 36 Whitehall Gardens, West Bay Road, Grand Cayman, Cayman Islands, the Employer having applied for the grant of the final twelve month work permit and having appealed the grant of 90 days only to the
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	Work Permit Board
Judgment, order, decision or other proceeding in respect of which relief is sought	<p>The decision of the Chief Immigration Officer dated 17th February 2014 granting a final work permit for three months from 22nd November 2013 to 22nd February 2014 and the decision of the Work Permit Board dated 17th April 2014 refusing the appeal against the refusal to grant a twelve month final work permit on the basis that no grounds of appeal had been established.</p>
<p>Relief Sought</p> <ol style="list-style-type: none"> 1. An order of <i>Certiorari</i> quashing the said decisions of the Chief Immigration Officer and the Work Permit Board; 2. An order of <i>Mandamus</i> directing the Chief Immigration Officer and/or the Work Permit Board to rehear the application in accordance with Section 52 (9) of the Immigration Law (2013) Revision as read with the amendment to Section 114 (1) of the Immigration Law (2013) as amended by the Immigration Amendment (No.2) Law 2013 on the basis that: <ol style="list-style-type: none"> i) The decisions were wrong in law in that they deprive the Appellants of the right to a final twelve month work permit which is a substantive right which existed immediately prior to the Immigration (Amendment) (No 2) Law 2013 coming into effect and therefore offends against the very nature of Section 114 (1) of the Immigration Law (2013) and all other savings provisions in previous Immigration Laws. ii) The decisions were unreasonable and in breach of the rules of natural justice in that the Appellant, Birdy Evadney Blake Morrison's appeal against the refusal of her right to permanently reside in the Islands having been heard by the Immigration Appeals Tribunal on the 17TH October 2013 prior to the Immigration (Amendment) (No. 2) Law 2013 coming into effect and having been refused on that date it was unreasonable for the Chief Immigration Officer and the Work Permit Board to issue the final work permit under the provisions of the Immigration Amendment (No.2) Law 2013 and not the law in 	

effect on the date of the refusal namely the Immigration Law 2013 (Revision). Bearing in mind the fact that the Applicant has now been resident in the Cayman Island for almost 20 years without a break in stay.

- iii) The Chief Immigration Officer and the Work Permit Board acted in a discriminatory and arbitrary manner and in a manner in which no reasonable Tribunal would behave by failing to provide the Applicants with any rational or fair basis or reasons for issuing the work permit under the Immigration (Amendment) (No. 2) Law 2013 and not under the law in effect on the date of the refusal of the appeal against Mrs. Morrison's right to permanently reside on the Islands.
 - iv) The Applicants had a legitimate expectation that upon the appeal being refused under the Immigration Law 2013 as read with as read with the amendment to Section 114 (1) of the Immigration Law (2013) as amended by the Immigration Amendment (No.2) Law 2013 a final work permit would be issued for a period of twelve months as provided by Section 52 (9) of the Immigration Law (2013) Revision.
3. An order of *Mandamus* directing the Chief Immigration Officer to permit the Applicant Birdy Evadney Blake Morrison to continue to work for her employer Sherri A. Bodden Cowan until the hearing of the application for judicial review of the decisions of the Chief Immigration Officer dated 17th February 2014 granting a final work permit for three months from 22nd November 2013 to 22nd February 2014 and the decision of the Work Permit Board dated 17th April 2014 .
 4. Such further, consequential, or other relief as to this Honourable Court seems just;
 5. Costs

Name and address of applicant's attorneys, or, if no attorneys acting, the address for service of the applicant	Bodden & Bodden Attorneys at Law Grand Pavilion Commercial Centre 820 West Bay Road P.O. Box 10335 Grand Cayman KY1-1003. Ref: SAB/srt
Signed 	Dated this 29th day of April, 2014

GROUNDS ON WHICH RELIEF IS SOUGHT

The Applicant seeks leave to apply for judicial review on the basis that the decisions made by the Chief Immigration Officer dated 17th February 2014 granting a final work permit for three months from 22nd November 2013 to 22nd February 2014 and the decision of the Work Permit Board dated 17th April 2014 dismissing the appeal of the Applicant against the grant of a twelve month final work permit were either: (i) wrong in law (ii) unreasonable, (iii) procedurally irregular or (iv) irrational, because the Chief Immigration Officer and the Work Permit Board failed to take into account the provisions of the Immigration Law 2013 as read with as read with the amendment to Section 114 (1) of the Immigration Law (2013) as amended by the Immigration Amendment (No.2) Law 2013 and the fact that the Birdy Evadney Blake Morrison's Appeal had been refused by the Immigration Appeals Tribunal on the 17th October 2013 prior to the coming into effect of the Immigration (Amendment) (No.2) Law 2013 and at which time the Immigration Law 2013 Revision was in effect.

NOTE: The Applicant's Attorneys respectfully request a hearing of this application for leave to apply for judicial review pursuant to Order 53, Rule 3 (3) of the Grand Court Rules.