

IN THE GRAND COURT OF THE CAYMAN ISLANDS

CAUSE NO: OF 2025

IN THE MATTER OF SECTION 23 (2) OF THE IMMIGRATION (TRANSITION) ACT (2022 REVISION)

IN THE MATTER OF ORDER 55 OF THE GRAND COURT RULES



MATTER OF AN APPLICATION FOR A RESIDENCY AND EMPLOYMENT RIGHTS CERTIFICATE
) SECTION 37 (1) IMMIGRATION (TRANSITION) ACT (2022 REVISION).

LILLION JENEFFOR LINWOOD

PLAINTIFF

-v-

IMMIGRATION APPEALS TRIBUNAL

Defendant

NOTICE OF
ORIGINATING MOTION

TAKE NOTICE that the Grand Court at the Law Courts, George Town, Grand Cayman will be moved on the _____ day of _____ 2025 at _____ a.m./p.m. or as soon thereafter as counsel can be heard, by counsel on behalf of the Plaintiff for an order in the following terms:

- i. The decision of the Defendant dated 9 April 2025 was erroneous in law, unreasonable and / or a breach of natural justice.
- ii. The decision of the Defendant dated 9 April 2025 is quashed and is to be remade.
- iii. The matter be remitted to the Defendant for the reconsideration of the Plaintiff's points.

And for an order that the costs, of and incidental, to this Application be paid by the Defendant.

This Motion was filed by HSM Chambers, Attorneys at Law for and behalf of the Plaintiff herein whose address for service and correspondence is 68 Fort Street, George Town, PO BOX 31726, Grand Cayman KY1-1207, Cayman Islands

AND FURTHER TAKE NOTICE that the grounds of this application are:

1. On 26 October 2013, the current Permanent Residence system was introduced. Save for a change to Factor 1, the System has essentially remained the same since 2013. No Permanent Residence applications submitted post 26 October 2013 were considered until 2017. When the Plaintiff applied for Permanent Residence, the relevant Act was the Immigration (Transition) Act (2022 Revision) ("the Act") and the Points system was found in the Immigration Regulations (2019 Revision) ("the Regulations").
2. To obtain Permanent Residence, an applicant is required to be awarded 110 points in total, after the various factors are considered.
3. Despite the ability for various decision makers to consider PR applications and reach different conclusions based upon the same information, no policies have ever been published in regard to the consideration and determination of applications. As a result, it is averred that the points system, in the absence of policies can be arbitrary and opaque.
4. On 24 March 2022, the Plaintiff applied for Permanent Residence of the Cayman Islands. At the time that she applied, and it is still the case, the Plaintiff is employed by the Bishop family as a Domestic Helper.
5. Applicants for Permanent Residence can obtain points for training and mentoring Caymanians. If an applicant trains and mentors a Caymanian during work hours, provided the applicant has trained and mentored that Caymanian for more than 35 hours in a year, the applicant can hope to receive 1.5 points for every year the training and mentoring took place.
6. If an applicant has trained and mentored a Caymanian outside of work hours or employer sponsors activities then for every year of training and mentoring, provided the training and mentoring lasted longer than 35 hours per annum, the applicant can hope to receive 2 points.
7. In a decision dated 27 July 2023, the Director of WORC rejected the Plaintiff's application for Permanent Residence on the basis that she was only awarded 92.25 points.

This Motion was filed by HSM Chambers, Attorneys at Law for and behalf of the Plaintiff herein whose address for service and correspondence is 68 Fort Street, George Town, PO BOX 31726, Grand Cayman KY1-1207, Cayman Islands

8. The Plaintiff appealed this decision and Grounds of Appeal were submitted.
9. As a result of the Appeal, Section 23 (10) of the Act, means that the Defendant cannot remit matters back to the Director of WORC and once an appeal has been submitted the Director of WORC's sole role in proceedings is to provide (if he so chooses) a defence to the Grounds of Appeal.
10. In a letter dated 14 March 2024, the Defendant accepted that the decision was wrong in Law and a requested up to date information so that a *de novo* hearing could take place. At this point, in time the Primary decision maker was no longer the Director of WORC and became the Defendant.
11. As part of new evidence that the Plaintiff provided, the following was submitted:
 - i. An sworn affidavit in which she confirmed that she trained and mentored Finn Bishop between 2018-2020 and Harry Bishop between 2019-2021. This training took place on a Saturday Morning, which was not during her normal working hours. The affidavit further confirmed that she was not paid for the training and mentoring.
 - ii. Letters from Finn Bishop and Harry Bishop and proof they are Caymanian.
 - iii. Letter from Finn and Harry's father confirming the training and confirming it took place outside of normal work hours and was unpaid.
 - iv. Employment Agreement confirming the Plaintiff was a domestic helper.
12. It was requested that the Plaintiff be awarded no less than **10 points** for the training that she provided to the Bishop sons.
13. In a decision dated 9 April 2025, the Defendant awarded the Plaintiff the following points.

Factor 1	15 points
Factor 2a	10 points
Factor 2b	7 points.
Factor 3	0 points.

This Motion was filed by HSM Chambers, Attorneys at Law for and behalf of the Plaintiff herein whose address for service and correspondence is 68 Fort Street, George Town, PO BOX 31726, Grand Cayman KY1-1207, Cayman Islands

Factor 4a	15 points.
Factor 4b	3 points.
Factor 5	1.5 points.
Factor 6	15 points.
Factor 7	20 points.
Factor 8	10 points.
Factor 9	8 points.
Total	104.5 points.

14. The Defendant did not award the Plaintiff any points for the Training and Mentoring provided to either Finn or Harry Bishop on the basis that:

“Does not meet the requirement of community integration or community mindedness as said services provided were confirmed to the children of the family whom the Appellant was already employed”.

15. It would appear that the Defendant has concluded that either training and mentoring cannot take place during a normal work relationship. There is nothing to suggest that this is correct, in either the Regulations or the Law. The Regulations expressly provide for training and mentoring to take place during a work environment and thus it is surprising that the Defendant reached the decision that they did. It is therefore no clear how the Defendant reached the decision that they did. It equally does not appear that there is any court precedent which would confirm that such an approach was appropriate.
16. Furthermore, Mr Bishop and his sons confirmed that the Training took place outside of normal working hours and the training and mentoring the Plaintiff was doing was not in respects to her main employment, i.e. Domestic helper. If it had been the case, that the Plaintiff was employed as a Tutor, then the Defendant’s position may have had some weight, however that is not the case. The Plaintiff was carrying out a role, outside of her employment and not being paid for it. This training and mentoring should therefore have been acceptable.

This Motion was filed by HSM Chambers, Attorneys at Law for and behalf of the Plaintiff herein whose address for service and correspondence is 68 Fort Street, George Town, PO BOX 31726, Grand Cayman KY1-1207, Cayman Islands

17. It is therefore contended that the decision of the Plaintiff's was wrong and the correct decision would have resulted in the Plaintiff being awarded sufficient points for the award of Permanent Residence.
18. It is not clear whether or not the Defendant is applying a "policy" or an undisclosed interpretation of the Law, which the Plaintiff is unaware off. If this the case, that the Defendant is relying upon an undisclosed policy, it is contended that this would not be in accordance with the Law and as such, amount to an error of law.
19. Furthermore, due to the sparse nature of decision, and the failure of the Defendant to confirm whether they are applying a "new" interpretation or a "new" undisclosed policy it is contended that there must be substantial doubt as to whether the Defendant has applied a policy or misinterpreted the law in a manner and as such the decision amounts to an error of Law.
20. The Plaintiff would therefore request that the decision be quashed and remitted to the Defendant for proper consideration.

HSM Chambers

HSM CHAMBERS

This Motion was filed by HSM Chambers, Attorneys at Law for and behalf of the Plaintiff herein whose address for service and correspondence is 68 Fort Street, George Town, PO BOX 31726, Grand Cayman KY1-1207, Cayman Islands