

THE REPUBLIC OF TRINIDAD AND TOBAGO

IN THE EQUAL OPPORTUNITY TRIBUNAL

(Referred pursuant to S. 39(2) of the Equal Opportunity Act 2000 as amended by Act No.5 of 2001)

E.O.T. No. 0008 of 2017

BETWEEN

BURTON BAPTISTE

Complainant

AND

THE UNIVERSITY OF TRINIDAD AND TOBAGO

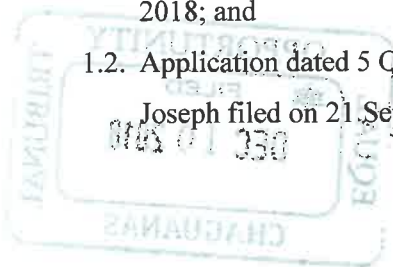
Respondent

RULING

1. APPLICATIONS - Before the Tribunal are 2 evidential applications of the Respondent to wit:-

1.1. Application dated 5 June 2018, objecting to the use of the Witness Statement of Reginald Crichlow filed on 30 November 2017. Submissions of the Respondent in support of this application were filed on 31 July 2018. Submissions of the Complainant in response were filed on 21 September 2018; and

1.2. Application dated 5 October 2018, objecting to paragraphs 3-12 of the Witness Statement of John Joseph filed on 21 September 2018.



2. WITNESS STATEMENT OF REGINALD CRICHLAW

- 2.1. It is common ground that the admission of expert evidence is governed by Part 33 of the Civil Proceeding R and Rule 13(7) and 14(12) & (13) of the EOT Rules of Practice and Procedure.
- 2.2. Part 33.2 of the CPR provides benchmarks for Expert evidence. Witness Statement of Mr. Crichlow does not meet these benchmarks. Part 33.5(1) of the CPR requires that the court's permission is required to call an expert witness. No application for permission has been or granted. Part 33.5 (4) of the CPR requires that the Report of the evidence be provided.
- 2.3. Further the Tribunal is of the view that the evidence of the proposed expert is not the result of any scientific investigation. It is not unbiased, impartial, cogent or helpful. Its prejudicial value outweighs any probative value it may have: See the judgment of Jamadar JA in *Christianne Kelsick v. Dr. Ajit Kuruvilla and others* CA No. P 277 OF 2012.
- 2.4. The objection to the use of the said Witness Statement of Reginald Crichlow is therefore upheld.

3. WITNESS STATEMENT OF JOHN JOSEPH

- 3.1. The paragraphs in this Witness Statement are not numbered. Paragraphs 3-12 are taken to be the sequential paragraphs 3-12 in the said Witness Statement.
 - 3.2. Taken together, paragraphs 3 -12 of the said Witness Statement adduce evidence of facts and matters of which the witness purports to have personal knowledge. The accuracy and cogency of this evidence may be tested on cross-examination. The Tribunal has the discretion to decide what weight if any should be given to all or any portion of the said paragraphs in issue.
 - 3.3. In the circumstances the objection to the use of paragraphs 3-12 is over-ruled.
4. The costs of these applications will be dealt with at the trial.

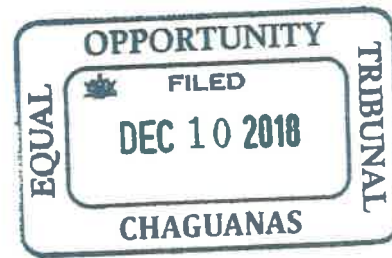


5. The Tribunal notes that there is a limited right to appeal under section 50(2) of the Equal Opportunity Act¹. In the event there is an appeal the Tribunal reserves its position to add to and/or further clarify its reasons herein.

6. The foregoing decision is made and delivered by the Judge/Chairman of the Tribunal in accordance with Section 44 (7) of the Act.²

Donna Prowell-Raphael
Judge/Chairman.

Chairman
Equal Opportunity Tribunal



¹ Chap 22:03 Laws of the Republic of Trinidad and Tobago.

² 44(7) The decision of the Tribunal in any proceedings shall be made by the Chairman and shall be delivered by him.