



In The Supreme Court of Bermuda

CIVIL JURISDICTION

2019: No. 087

BETWEEN:

TAWANNA WEDDERBURN

Applicant

-and-

THE BERMUDA HEALTH COUNCIL

1st Respondent

DR. ALICIA STOVELL

2nd Respondent

MINISTER OF HEALTH

3rd Respondent

PREMIER OF BERMUDA

4th Respondent

Before:

Hon. Assistant Justice Kessaram

Appearances:

Mr Eugene Johnston, Smith Bean & Co., for the Applicant

Mrs Julianna Snelling, Canterbury Law Limited, for the 1st and 2nd Respondents

Charles Richardson, Compass Law Chambers, for the 3rd and 4th Respondents

Date of Hearing:

15 November 2019

Date of Judgment:

4 December 2019

RULING

1. This is my ruling on an *inter partes* application by the Applicant, Twanna Wedderburn, for leave to appeal my Judgment on a preliminary issue dated 9 October 2019.
2. The issue I decided was whether the termination of the Applicant's employment by the Bermuda Health Council is amenable to Judicial Review. I found that it was not. The leave to appeal application first came before me *ex parte* under Order 2, rule 3 of the Rules of the Court of Appeal on 30 October 2019. I directed that the application be served on the Respondents. I should add that, although my decision is described as a judgment on a preliminary issue, it is essentially an interlocutory decision on what was in reality a strike-out application; hence the need for leave to appeal.
3. The general test to be applied on an application for leave to appeal was not in dispute. I am required to determine whether the grounds of appeal have any realistic prospects of success.
4. I have heard counsel on both sides and considered Ms. Snelling's 27-pages of submissions in opposition to the application. I do not find it necessary to deal with each proposed ground of appeal. This is a very unusual case. Serious allegations have been made by the Applicant in the conduct of the affairs of the Bermuda Health Council leading to the decision to terminate the Applicant's employment. I am not able to say that it is unarguable that, if true, the allegations relating to the convening and conduct of the meeting at which the termination decision was made vitiated the resolution to terminate. Likewise, the validity of the decision of the Minister of Health to approve the decision to terminate is not free from doubt.
5. In my view it is appropriate that the Court of Appeal be permitted to express its view as to whether the assumed facts have a bearing on the termination decision and/or approval decision; and, if so, the consequences in law on the Applicant's employment.

6. Accordingly, I grant leave to appeal to the Applicant and order that the costs of the leave application be in the appeal.

Dated 4 December 2019

DAVID KESSARAM
ASSISTANT JUSTICE