# THE REPUBLIC OF TRINIDAD AND TOBAGO

**IN THE HIGH COURT OF JUSTICE**
**SUB-REGISTRY, SAN FERNANDO**

Claim No. CV 2017-02046

**RAPHAEL MOHAMMED**

CLAIMANT

AND

**THE COMMISSIONER OF PRISONS**

FIRST DEFENDANT

AND

**THE ATTORNEY GENERAL OF TRINIDAD AND TOBAGO**

SECOND DEFENDANT

**Before Her Honour Madam Justice Eleanor J. Donaldson-Honeywell**

**Appearances:**

Mr. Anand Ramlogan SC, Ms. Chelsea Stewart and Ms Alana Rambaran, Attorneys-at-Law for the Claimant.

Ms Keisha Prosper and Ms. Lesley Almarales, Attorneys-at-Law for the Defendant.

**Delivered on June 12, 2018**

## JUDGEMENT

## I. Introduction

1. The Claimant seeks judicial review of the Defendants' unreasonable delay in rendering a decision as to the Claimant's entitlement to injury leave. The embodiment of such a decision would have been in the completion and signing by the First Defendant of the Employer's page of the Claimant's Injury Benefit Application Form. No decision regarding the Claimant's injury was made until after this Court granted injunctive relief at the Leave stage of this matter.

2. At the first Case Management Conference herein on September 26, 2017 it was already ordered that the Defendant sign the Claimant's Injury Benefit Application Form and there was belated compliance. The Claimant now seeks the further reliefs outlined in the claim namely:
   a. A Declaration that the Defendant breached its statutory duty in **Section 15 of the Judicial Review Act Chap. 7:08 ("JRA")** that the Commissioner of Prisons has unreasonably delayed in reclassifying the Claimant's National Insurance Employment Injury Benefit Payment.
   b. A Declaration that the Claimant was treated unfairly contrary to the principles of natural justice pursuant to **Section 20 of the JRA**,
   c. Costs.

3. The Claimant is an employee of the First Defendant. The Second Defendant has been included as a Defendant pursuant to the **State Liability and Proceedings Act, Chap. 8:02** because agents of the state are responsible for the decision challenged in this matter.

4. This matter arose out of an accident which occurred on 26th September, 2016 during the course of the Claimant's employment with the First Defendant. It resulted in injury being sustained for which the Claimant was forced to take leave. The Claimant intended to apply for National Insurance Employment Injury Benefits. In order to succeed on such an application, however, the Claimant contends that it was necessary for the First Defendant to take decisive action, by as he puts it, 'reclassifying' the sick leave taken as a result of the injury to 'injury leave'. In essence the Claimant, who was on sick leave, is saying that the First Defendant was required to confirm, by filling out and signing his form, that he had been injured and was entitled to Injury Leave.

5. The deadline date for submission of late claims under the National Insurance Board ("NIB") policy is 12 months from the date of injury. The Claimant claims that the First Defendant failed to reclassify the Claimant's sick leave and to confirm this by signing the insurance claim form. The Claimant complains that there was this failure despite his having

submitted all the necessary documents for approval. The documents were submitted under cover of letter dated October 8, 2016 taken in by his wife Natasha. The Claimant says further, that during the period after his request was submitted to the First Defendant, he was informed that it was on the Commissioner's desk waiting to be signed and would only be signed on his return to work. However, he was unable to return to work as a result of his injuries.

6. Thereafter, he contends, he was informed that there was an allegation by the Assistant Superintendent from the Personnel Department that he was feigning illness. The Claimant therefore made further efforts to prove his injured status by submitting medical documents and evidence that he remains an outpatient of the Eric Williams Medical Sciences Complex.

7. By Pre-Action Protocol Letter sent in February, 2017, the Claimant requested that the matter be urgently dealt with and that the Insurance claim be signed, after reclassification of leave to injury leave. There was no response to this letter. Following this, the Claimant submitted an Application pursuant to the **Freedom of Information Act 1999** ("FOIA'") requesting copies of any and all documentation containing the policy and procedure of the Commission regarding National Insurance Payments, copies of any and all documentation containing the policy and procedure by the Commission, regarding the re classification of Sick Leave and copies of all documents on the Claimant's personal file.

8. The First Defendant responded on 6th day of March, 2017 granting access to the requested documents wherein **General Orders 85 of 2003 and 90 0f 2001** were revealed. **General Order 85 of 2003** stipulated that in order to facilitate the processing of requests for Injury Leave, the following procedures were to be adhered to:

   *"(a) The statement from the officer so affected must clearly state:*

   *(i) The Period of Sick Leave to be treated as Injury Leave and*

   *(ii) Particulars relating to the incident including the date, time and a description of how the injury occurred.*

*(b) A statement from any individual(s) who witnessed the accident/incident (where applicable)*

*(c) A statement from the officer(s) to whom the report was made, (e.g. Prisons Supervisor/Prisons Officer II in charge: Batch/Section) with comments where necessary.*

*(d) Where applicable, a statement from the Infirmary Officer/Prisons Medical Officer in support of the officer's claim that he was injured while on duty."*

9. The Claimant states that he submitted all of the above mentioned documents required under the Order disclosed to his Attorneys. However, the First Defendant disputed having received a statement from any individual who witnessed the accident. The Claimant asserted that a witness statement was in fact submitted to the Commission by Acting Prisons Officer 2 E. Mitchell who was present at the time of the accident. However, in an attempt to resolve the issue, by letter dated 27th March, 2017, the Claimant again wrote to the Commissioner attaching a witness statement of Mr. Roger Collins also known as "Salvo Dog", He was at the material time, an inmate of the Golden Grove Prison serving a two (2) year sentence and operated as an orderly in the Plumbing Sector. This letter was endorsed as having been received by agent of the Commission, Mustaq Mohammed on 3rd April, 2017.

10. Though all necessary documents were delivered there was no response by the First Defendant thereafter. Less than three months later, on June 5, 2017, the instant Judicial Review litigation concerning the First Defendant's failure to decide on the Claimant's injury status was commenced.

11. The Defendants in their Affidavit evidence filed herein have not denied any of the facts alleged by the Claimant as summarised above. Neither do they argue that the Claimant's substantive application for reclassification was under question by the Defendants or was to be denied. Instead, the short Affidavit filed by the Defendants highlights that at the time when the Claimant was still pursuing and was granted injunctive relief on September 26, 2017, the Claimant had already filed his form with the NIB in August 2017.

12. The injunction directed the First Defendant to sign the Claimant's Form. They claim that attempts were made to do so but a search of their records did not result in finding the form. Contact was made with the Claimant's wife and through her it was ascertained that, despite there being no approval decision by the Defendants, a form was submitted directly to the NIB by the Claimant in August 2017. Paragraph 8 of the Defendants' Affidavit confirms however, that an originally submitted form was in fact present at the First Defendant's Golden Grove location.

13. The defence to the Judicial Review claim and relief sought herein, as set out in written in submissions, focuses primarily on procedural failings as it relates to the commencement of Judicial Review proceedings as well as on technicalities concerning the injury leave process. The Defence is as follows:

    a. Firstly, they argue that the Claimant delayed in making his application for judicial review to this court and further that he did not apply to have the matter treated as urgent pending the one year deadline within which a claim for Injury Leave could be filed with the NIB.
    b. Secondly, they argue that the decision to reclassify the Claimant's leave to injury leave was not required to submit an application to NIB and that the Claimant did, in fact, submit his application prior to the order of the court.
    c. Thirdly they submit that the Claimant was given an opportunity to be heard and was, in fact, heard in relation to his application as he corresponded with the First Defendant and was able to submit all his documents.
    d. Finally, the Claimant's failure to disclose material facts to the court is underscored as a factor that should weigh heavily against him in his Judicial Review claim.

14. The underlying position of the Defendants, as can be gleaned from their submissions, is that the Claimant's application for Judicial Review was unnecessary as nothing prevented him from taking his Form in to the NIB even though the Defendant failed to sign it confirming that he was injured on the job. In essence they argue that the commencement of litigation was a useless venture.

15. In response the Claimant argues against the viability of a form filed without the Employer's input while underscoring that the Claimant only submitted the incomplete form in view of the looming deadline. There could have been no certainty that this would meet the requirements of the NIB. Furthermore the Claimant argues that even if the litigation was useless as suggested, the Defendants must bear the costs for same as they failed to respond to Pre-action correspondence in a manner that could have resolved the matter.

## II. Issues

16. The issues in the present decision are therefore as follows:

i) Whether the decision to reclassify the Claimant's leave to injury leave was necessary to obtain the NIB benefits;

ii) Whether there has been unreasonable delay by the Claimant in applying for judicial review;

iii) Whether the Claimant was treated unfairly and contrary to principles of natural justice by the First Defendant;

iv) Whether the Claimant's failure to disclose to the court that he had sent in an application to the NIB in August 2017, after the initiation of these proceedings would affect the reliefs and/or costs claimed;

v) Whether the Defendants should be required to pay the costs of the Claimant for this Claim.

## III. Law and Analysis

*The Legislative provisions*

17. Counsel for the parties in closing submissions, usefully set out the relevant provisions as follows:

**Section 15 Judicial Review Act**,

"*15. Where*

*(a) A person has a duty to make a decision to which this Act applies;*

*(b) There is no law that prescribes a period within which the person is required to make that decision; and*

*(c) The person has failed to make that decision,*

*a person who is adversely affected by such failure may file an application for judicial review in respect of that failure on the ground that there has been unreasonable delay in making that decision.*"

**National Insurance Benefit Act and Regulations Chap 32:**

The Act

*"37(1) Every employed person and every unpaid apprentice shall be insured in the manner provided by this Act and the Regulations against personal injury caused on or after the appointed day by accident arising out of and in the course of that person's employment and there shall be payable in the prescribed circumstances to or in respect of every such person the type of benefit (hereinafter called "Employment Injury Benefit") specified in section 46(3).*

*46 (3) Subject to this Act, employment injury benefit shall be paid to or in respect of persons insured under section 37 and such benefit may be in the nature of— (a) an injury benefit, payable where the insured person is rendered incapable of work"*

The Regulations

"*4. (1) Claims shall be made to the Board on claim forms obtainable at any service centre.*

***7.*** *(1) The time limit for the submission of claims are as follows:*

*(e) in the case of injury benefit not later than fourteen days from the date the insured person is rendered incapable of work as a result of the accident or development of the prescribed disease;*

*34. (1) For the proper administration of employment injury benefit an employer shall be required to furnish the Board with information relating to any accident arising out of and in the course of employment whereby personal injury is caused to any person employed by him.*

*(2) The Board shall determine the nature of the information to be furnished as well as the form and manner in which such information shall be furnished.*

*35. An employer who fails to comply with regulation 34 is liable on summary conviction to a fine of five hundred dollars and to three months imprisonment.*

*38. The employer of an insured person shall certify to the Board as far as possible at the same time as the insured person's claim is submitted, the insured person's absence from work and the amount of his loss of earnings. The certificate of the employer shall be in such form as the Board may from time to time determine.*

*40. Where having regard to the special circumstances of any case, grave hardship or unreasonable delay may result if the documentary evidence required by these Regulations were to be insisted upon, the Board may accept such other evidence as it may deem fit and proper and may require a claimant to attend and give such information as may be necessary for the determination of his claim.*"

*Was a decision necessary and if so was it made without unreasonable delay*

18. The Defendants argue that there was no need for the reclassification of sick leave to injury leave for the Claimant to obtain the benefits he wished to apply for. In support of this contention they argue that the August 2017 acceptance by the NIB of the Claimant's application for benefits without the reclassification is evidence that the First Defendant's delay in confirming the injury leave in no way hindered the Claimant's application. There is no challenge by the Defendants, however, to the fact that the application form submitted by the Claimant to the NIB has not yet been approved and is still under investigation.

19. The Defendants also make the submission that failure to furnish information relating to an accident to the Board is an offence for which the Employer is liable to a fine as well as incarceration and that this shows that the Claimant could not have been adversely affected.

20. The Defendants have however put forward no concrete argument or evidence that the Claimant's application for injury leave could have succeeded without the requisite information from his employers. It is clear from the statutory provision that injury leave benefits are received on the basis that the injury takes place during the course of employment. This must be confirmed by the Employer. If this had not been done, as it was belatedly in October 2017 long after the filing of this claim, investigation by the NIB would have revealed the classification of the Claimant's leave as sick leave. That would be certain to have had a detrimental effect on his application for injury leave benefits.

21. Although the NIB regulations do not specifically require the re-classification, the failure to make a decision within the requisite time whether to endorse the Claimant's injured on the job status may have been perceived upon investigation as a lack of support by the First Defendant for the Claimant's application. Further, the failure by the First Defendant to make such decisions *within the time specified by the NIB* would adversely impact on the viability of the Claimant's application.

22. It is my determination that the Defendants' argument that a decision on reclassification to injury leave, whether by signing a form or otherwise, was unnecessary and/or need not have been done without reasonable delay, is neither borne out by reference to the governing Statute nor to any evidence.

23. There is merit to the Claimant's submissions that the Defendant ought to have acted without undue delay, in cognizance of the time sensitivity of injury applications. The submission at paragraphs 31 to 33 is as follows:

> "*While there is in fact no time limit placed upon First Defendant, to make such a determination, that is, to reclassify the Claimant's sick leave to injury leave and thereafter sign the Claimant's insurance claim forms, there is in fact a time limit*

*within which the Claimant must lodge the requisite claim in order to access the employment injury benefit; that being within 14 days of the date of the injury or a late claim which is within one (1) year of the date of the injury with good cause.*

*In the circumstance, the Defendant's actions are thus plainly unreasonable. In* ***Anthony Leach V The Public Service Commission H.C.A 1002 Of 2004,*** *Jones J. (as she then was), in determining whether disciplinary proceedings should be allowed to continue where there was substantial delay in instituting disciplinary charges, devised the following test by way of enquiry:*

> *"Were these delays in good faith? Were they lengthy? Were they entirely understandable? Did the Applicant suffer material prejudice? Are there any fair trial considerations or fundamental human rights in issue? These must, in my opinion, be the questions for the court in circumstances like these. At the end of the day what this Court is called upon to determine is whether in all the circumstances it is fair, given the delay of over four years between the institution of the disciplinary procedure and the preferring of the charges, to allow the disciplinary proceedings to continue. It is in dealing with this question of fairness that both the reasons for the delay given by the PSC and the prejudice suffered by the Applicant are relevant."*

*Jones J further stated that:*

> *"The reasons given by the Public Service Commission for the delay cannot to my mind be acceptable. It cannot be reasonable for any public body, whatever its staffing situation. to take over three years to advise on whether or not to pursue disciplinary action against an officer and to draft charges".*

*In consideration of Jones J.'s test, in the case at bar, the answer is no. The Defendant offered no plausible reasoning for their non-responsive disposition to the Claimant's application. The Affidavit of Mark Cemento "the Cemento*

*Affidavit", fails to address why diligent searches were not done at the point of the Claimant's Pre action letter, at the point of the Claimant's freedom of information application and cover letter and or at the point of the Claimant's follow up letter in response to the lack of a witness account."*

24. In the circumstances of this case it is my finding that, having been informed by the Claimant in a timely manner concerning his intended application for NIB injury leave benefits, the failure by the Defendant to make a decision as to whether to confirm his injury leave before the period of one year elapsed was unreasonable.

*Unreasonable Delay in Filing for Judicial Review*

25. **S.11 Judicial Review Act, Chap. 7:08** ("JRA") states:

*"(1) An application for judicial review shall be made promptly and in any event within three months from the date when grounds for the application first arose unless the Court considers that there is a good reason for extending the period within which the application shall be made.*

*(2) The Court may refuse to grant leave to apply for judicial review if it considers that there has been undue delay in making the application, and that the grant of relief would cause substantial hardship to, or substantially prejudice the rights of any person, or would be detrimental to good administration.*

*(3) In forming an opinion for the purpose of this section, the Court shall have regard to the time when the Claimant became aware of the making of the decision, and may have regard to such other matters as it considered relevant."*

26. **Part 56.5 Civil Proceedings Rules 1998**, as amended ("CPR") states:

*"(1) The judge may refuse leave or grant relief in any case in which he considers that there has been unreasonable delay before making the application… (3) When considering whether to refuse leave or grant relief because of delay the judge must consider whether the granting of leave or relief would likely to – (a) cause*

*substantial hardship to or substantially prejudice the rights of any person; or (b) be detrimental to good administration."*

27. As such this court must examine:
    i) Whether the Claimant's claim for judicial review was made more than three months after the date when grounds for the application arose; and
    ii) Whether delay was unreasonable having regard to:
        a. whether the granting of relief would cause substantial hardship or substantially prejudice the rights of any person; and
        b. whether the granting of relief would be detrimental to good administration.

28. This matter deals not with a positive action but with a failure to make a decision. As a result, the time at which the grounds for judicial review would have arisen is in issue. The Defendants submit that the date on which the Claimant application was filed was nine months after the injury occurred and three months shy of the NIB deadline. At paragraph 13 of the Defendants' submissions they state:

    *"The Claimant has failed to explain how the delay could have been calculated at two months since he has stated in his affidavit that he had been communicating with the Commissioner's office from October 2016 with no favourable response."*

29. The Defendants however, fail to submit on what date on their interpretation, the grounds for judicial review arose in this matter.

30. It is clear from the timeline of events that the Claimant was waiting for the First Defendant to make the decision to reclassify his sick leave to injury leave from the period 26th September 2017 to the date of filing of this Judicial Review application on 5th June, 2017. During these nine months there were indications by the First Defendant that they were awaiting the Claimant's return to work to sign the application form, and that there had been allegations of feigning illness.

31. Thereafter, it appears that the Claimant sought information in the form of a FOIA Application dated 22nd February, 2017 in order to determine whether he had submitted all necessary documents for the reclassification to take place. The response to this application was received on 6th March, 2017. The Claimant attempted to furnish further information in support of his application as a result of the information received in the FOIA request on 27th March, 2017.

32. Thereafter a period of two months passed before the Claimant initiated legal proceedings. This, in my view, was a reasonable period of time in which the Claimant gave the Defendants a further opportunity to process his request given that his application was completed in March 2017. During this time, he received no response.

33. The duty to make a decision on whether to reclassify sick leave as injury leave was a continuing one. It was not communicated to the Claimant in any way prior to these proceedings that any decision was made as to whether his request was approved or denied. The Claimant acted reasonably in attempting to resolve the matter out of court, by sending his own correspondence, by requesting information pursuant to FOIA and by the Pre-action protocol letters sent by his Attorneys.

34. It is to be noted that the Claimant's failure to apply for the matter to be dealt with urgently has no bearing on the issue of delay in making its application to the Court and cannot be a factor in considering whether to allow the application for judicial review. Further, the Defendants in submissions have miscalculated the period after the submission of the witness statement on 27th March, 2017 to the date of filing of the present application on 5th June, 2017 as a period of three months when it is in fact just a few days more than two months.

35. Per Lord Woolf in **R v Commissioner for Local Administration, ex parte Croydon London Borough Council [1989] 1 All ER 1033**, 1046g:

> *"While in the public law field, it is essential that Courts should scrutinize with care any delay in making an application and a litigant who does delay in making an*

*application is always at risk, the provisions of RSC Order 53, r 4 and s 31(6) of the Supreme Court Act 1981 are not intended to be applied in a technical manner. As long as no prejudice is caused, which is my view of the position here, the courts will not rely on these provisions to deprive a litigant who has behaved sensibly and reasonably of relief to which he is otherwise entitled."*

36. In the present case the Claimant indeed behaved sensibly and reasonably in his pre-action conduct in the face of an ongoing failure of the First Defendant to make a decision as to whether he was on injury leave or not. It is, in fact, the failure of the Defendants to respond promptly to the Claimant with any substantive decision on his request that has brought this matter to court.

37. In light of these facts, I do not consider that there was any delay by the Claimant in initiating Judicial Review proceedings. Accordingly, it is not necessary to examine the issue of detriment to good administration as outlined by the First Defendant.

*Natural Justice*

38. The Defendants argue that the Claimant has not shown any breach of natural justice, particularly any breach of the right to be heard as there was never any refusal to accept the documentation submitted by the Claimant. They further argue that they complied with their duty of fairness by providing the necessary documentation pursuant to the FOIA. They cite the decision of **Sam Maharaj v Prime Minister [2016] UKPC 37** as authority for the proposition that the opportunity to be heard need not be in the form of an oral hearing.

39. On the evidence before the Court it is not clear in what respect the breach of Natural Justice is alleged. Although the Claimant has stated that an allegation was made by the Personnel Department that he was feigning injury, there is no evidence of any investigation of that allegation or any positive determination made by the First Defendant not to reclassify his leave from sick to injury leave. The Claimant, therefore, has not furnished sufficient factual basis for the allegation that his rights to fairness and to be heard have been breached.

40. The facts do indeed indicate that the Claimant's documents were accepted, including the witness statement furnished after the response to the FOIA request. Therefore, the Claimant has failed to establish sufficient basis for granting of the declaration that he was treated unfairly contrary to the principles of natural justice pursuant to **Section 20 of the JRA**.

*Claimant's non-disclosure vs Defendants' failure to adhere to Pre-Action Protocol and impact on costs*

41. The Defendants, submit that the Claimant's failure to disclose to the Court that he had submitted an application to NIB in August, 2017 must be taken into account in denying him any entitlement to relief and/or costs. They further submit that the Defendants' failure to disclose to the Court the effect of **regulations 34 and 38** of the NIB Regulations should likewise by found to be detrimental to his claim. Those regulations set out the duty of the employer to provide information and penalties for any non-disclosure by the employer of information related to an alleged injury causing accident on the job.

42. There is merit to the Defendant's contention that the application submitted by the Claimant to the NIB without the signature of the First Defendant in August 2017 should have been disclosed. The appropriate time to disclose it was at the case management conference in September 2017 when the Claimant pursued and was granted injunctive relief.

43. However, the submission of the incomplete application in August 2017 was not so material a fact that its non-disclosure should be treated as fatal. The fact that a form unsigned by the employer was submitted did not resolve the issue that the Claimant still needed to have the employer confirm that he was injured on the job and as such provide support for his claim for injury leave benefits. It was in this context that the injunction claimed, directing that the employer sign the form and submit it to the NIB, remained necessary.

44. The Claimant's submission of the form without the required completion of it by the First Defendant was clearly just an attempt to get his form in before the looming deadline. He could not be assured of success based on this action as the employer's input was still

required to secure his benefits. The likelihood of success on the NIB application would be severely limited without the approval of the First Defendant as employer. It is that approval that remained outstanding even after the Claimant submitted the incomplete form in August 2017.

45. The Claimant contends that there was unreasonable delay in the making of what he calls a re-classification decision. Much is made of the use of the word "re-classify" by counsel for the Defendant. However, what is clear, regardless of the name used, is that a decision was not made by the First Defendant, in a timely manner or at all, as to whether to confirm that the Claimant was on injury leave until several months after the filing of this Claim and the granting of the interim injunctive relief. The Claimant's Form was eventually signed by the First Defendant in October 2017 after delay that the Claimant says was unreasonable. The reason for delay has not been explained.

46. Regarding the non-disclosure of **Regulation 34**, it is clear that the penalties to be imposed on an employer for non-disclosure of material facts have no direct bearing on the failure of the Defendant to reclassify the Claimant's leave. There is no iron clad provision protecting the Claimant's entitlement under his benefits application in such a case. It is my finding that neither the Claimant's failure to disclose the August 2017 submission of an incomplete form nor his failure to disclose Regulations 34 and 38 impact adversely on his entitlement to the relief claimed or to costs.

47. The Claimant claims the costs of his application for judicial review. The claim is supported by authorities on the point that in judicial review cases the Claimant's compliance with the pre-action protocol must be taken into account. This is so particularly where the Defendant failed to comply with the pre-action protocol by providing timely responses that may have settled the matter. If the defendant then takes steps that settle the issue of concern after (rather than before) the Claim commencing litigation is filed, then the defendant should be directed to pay the Claimant 's costs - **M v Croydon London Borough Council (2012) 1 WLR 2607**.

48. In the present case the Claimant in fact complied with the Pre-Action Protocol and the Defendants did not. As the Claimant submits, compliance with the pre action protocols is especially important in cases where the Defendant seeks to argue that the litigation is useless **– Dennis Graham v Police Service Commission & Minister of National Security CV2007-00828**. The Defendants have not provided any explanation for failure to respond in a constructive manner, to the pre-action requests. This case is one in which timely pre-trial communication by the Defendants could indeed have obviated the necessity for the litigation being commenced.

49. The Claimant, therefore, is entitled to the costs of his Application.

## IV. Decision

50. In the circumstances the following orders are made:

i. It is hereby declared that the Defendants breached their statutory duty in ***Section 15 of the Judicial Review Act Chap. 7:08 ("JRA")*** in that the Commissioner of Prisons has unreasonably delayed in reclassifying the Claimant's 'sick leave' period to 'injury leave', thereby hindering the Claimant's National Insurance Employment Injury Benefit Payment.
ii. The Defendants are to pay the Claimant's costs of this Claim fit for Senior Counsel and Junior Counsel in an amount to be assessed by the Master if not agreed.

**Delivered on June 12th, 2018**

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Eleanor J. Donaldson-Honeywell

Judge

Assisted by Christie Borely JRC I