



[2012] JMSC Civ. 170

IN THE SUPREME COURT OF JUDICATURE OF JAMAICA

IN THE CIVIL DIVISION

CLAIM NO. 2012 HCV 05566

BETWEEN	UNIVERSITY HOSPITAL BOARD OF MANAGEMENT	CLAIMANT
AND	DR. SANDRA WILLIAMS-PHILLIPS	DEFENDANT

Mr. Christopher Kellman and Mr. Kyishna Desai instructed by
Myers, Fletcher & Gordon for Claimant
Ms. Vinette Grant instructed by H.G. Bartholomew & Co. for
Defendant

Heard: 15th, 23rd November, 2012

***Interlocutory Injunction Application for Doctor to be barred from hospital
premises - Considerations***

D.O. MCINTOSH, J

[1] The interpartes hearing was set for the 18th October, 2012. On that date the parties were not in a position to be heard and the hearing was adjourned by this court to be 15th November, 2012. The injunction granted on the 10th October, 2012 was extended to the 15th November, 2012 with modifications to the original order granted on the 10th October, 2012.

[2] The order of the 10th October, 2012 had inter alia:

Restrained the Defendant from entering upon the premises of

the University Hospital of the West Indies at Mona, Kingston 7

[3] Claimants filed their Claim Form with Particulars of Claim on the 16th October, 2012. Their claim is in trespass. Their grounds for the claim is based on affidavits of the Chairman of the Board, Dr. Trevor McCartney who depones to information from persons who have not deponed. He did not himself witness the alleged acts of trespass by the Defendant, a highly qualified registered Medical Practitioner who used to be a staff member.

[4] If there were acts of trespass committed by the Defendant on three separate occasions, the last being on the 16th October, 2012 there really would be no urgency to have the Defendant excluded from the hospital compound.

[5] The hospital is a public hospital from which the public should not be barred except in exceptional circumstances.

[6] If a citizen goes into unauthorized area or seeks to be present for unauthorized reasons there is security at the hospital to deal with such invasion. Should the behavior or conduct of the Defendant warrant her confinement in Ward 21 there are procedures which the hospital could adopt.

[7] While the claim may be regarded as presenting serious issues to be tried i.e. trespass – it seems clear that damages would be a sufficient remedy to Claimant if they succeed.

[8] The balance of convenience would not favour the grant of an injunction as Defendant as a doctor and a citizen would be barred from availing herself of the facilities offered at the institution. That would be to her detriment and damages would not suffice.

[9] In all the circumstances of the case this court will refuse the grant of an injunction.

Order

1. Injunction refused
2. Costs to be the Defendant to be agreed or taxed.

