

**IN THE SUPREME COURT OF BELIZE, A.D. 2005**

**ACTION NO. 78**

**SOCIAL SECURITY BOARD**

**Applicant**

**AND**

**PHILLIP GALLATY**

**Respondent**

—

**BEFORE** the Honourable Abdulai Conteh, Chief Justice.

Mr. Michel Chebat with Ms. Ashanti Arthurs for the Applicant.  
Mr. Emil Arguelles for the Respondent.

—

**DECISION**

This application raises puzzling points which from a perusal of the Tribunal's decision are not clear, especially whether the Respondent qualifies for the purposes of section 2(1) of the Social Security Board Act. That is, he suffered the injuries out of and in the course of his employment.

From the record, the tribunal had to determine this issue and its Chairman who is a learned senior counsel commendably considered and analyzed the relevant case law in this area of the law.

Unfortunately, instead of determining this solely by himself as he is required to by Regulation 6 of S.I. No. 83 of 1980 on Procedure of Appeal Tribunal, the issue was unanimously determined by the tribunal as a whole.

In this respect the decision is flawed simply because by law Regulation 6 of Procedure of Appeal Tribunal, in any case before an appeal tribunal –

"a) a point of law arising from an appeal or reference shall be determined *solely* by the Chairman."

In the instant case the principal issue before the tribunal was whether the Respondent was hurt within the provision of "course of employment" as defined in section 2(1) of Chapter 44.

This, with respect, was an issue of law, to be determined by the Chairman.

But here, after the helpful analysis of the relevant cases, albeit, it is not clear who did the analysis (presumably the Chairman who, as I said earlier, is a Senior Counsel), the tribunal it is stated in its decision unanimously agreed that the Respondent was injured in the course of his employment.

There should have been a determination of the Respondent's position by the Chairman as a matter of law, before the tribunal as a whole concluded on the matter, no doubt, guided by the analysis of the cases.

Accordingly, I find that the application raises a substantial question of law, and so find for the applicant.

Therefore in accordance with section 120(1) of Chapter 91, I remit the case with this Ruling back to the tribunal for a proper determination in view of my present Ruling.

**A. O. CONTEH**  
**Chief Justice**

**DATED: 23<sup>rd</sup> March, 2005.**