

National Workers Union



**Organise the Un-organised
Workers of the world unite!**

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President: Dave Smith :: General Secretary: Carla Walcott

Registration No: 501 (15th October 2004)

5th October, 2020

Mr. Roger Gaspard
Director of Public Prosecutions
Office of the Director of Public Prosecutions
Park Street
Port of Spain

Our Ref: DS/CW/aa

SENT: Registered Post

Dear Mr. Gaspard,

Within recent times, several of the retrenched workers from The Myerson Company Limited have approached our Union for advice and representation. In the process, they raised with us some concerns over their contributions to NIS, only to discover that no contributions were remitted to NIB for parts of 2018, none for 2019 nor 2020.

The Union sought a written explanation from the Company but to no avail. The employer did not comply with Section 38A of the NIS Act when they failed to give each such worker a statement of contributions deducted and paid to nib for the year within 30 days of termination of employment. This is a criminal offence and is punishable on summary conviction with a fine of four thousand dollars (\$4,000.00) and six (6) months imprisonment.

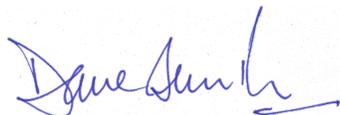
In addition, under Section 40 of the Act, an employer who fails or neglects to pay or effect payment of contribution is also committing another criminal offence and is liable on summary conviction to a fine of four thousand dollars (\$4,000.00) and six (6) months imprisonment.

Our Union has had similar complaints for quite some time from other groups of workers. The time has come to enforce the law. The situation affects thousands of workers. The Annual Reports of NIB showed that in 2018, employers were in arrears of over \$437m. In 2017 employer arrears amounted to \$565m. In 2016 it was \$383m. In fact, every year

employers' arrears are hundreds of millions of dollars. It certainly appears that the law is broken with impunity by employers. These criminal offences must neither be condoned nor allowed to continue.

In the circumstances, we are calling on you to take the necessary steps to launch an investigation into the arrears owed by employers and their failure to give terminated workers certificates of contributions paid to NIB under Section 38 of the NIS Act. The time has come to bring the offending parties to justice.

Yours faithfully



DAVE SMITH
President



CARLA WALCOTT
General Secretary

FOR EASE OF REFERENCE:

National Insurance Act, Chapter 32:01

38 (A) Every employer shall issue his employee within thirty days of termination of employment of such employee a certificate setting out—

- (a) the employee's total insurable wages for the contribution year;
- (b) the total amount of contributions deducted from those wages;
- (c) the total amount of contributions paid to the Board; and
- (d) the number of contribution weeks covered by those contributions.

(2) A copy of the certificate issued to the employee shall be forwarded to the Board on the same day the certificate is issued to the employee.

(3) An employer who fails to issue the certificate referred to in this section to an employee or fails to forward a copy of such certificate to the Board is liable on summary conviction to a fine of four thousand dollars and to imprisonment for six months.

40. An employer who fails or neglects to pay or effect payment of contribution in respect of any person in his employment who is required to be insured under this Act, is liable on summary conviction to a fine of four thousand dollars and six months imprisonment and in the case of a continuing offence shall be liable in respect of each person for whom he neglected or failed to pay or effect payment of contribution, a further fine of one hundred dollars a day for each day that the offence continues after conviction