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At the Regional Labor Court in Jerusalem

CA 18674-05-11

In the matter of:

1. Tamimi I.D. _____
2. Tamimi I.D. _____
through their mother and natural guardian
Mrs. Tamimi
of Isawiya, Jerusalem
Represented by counsel Bassam Karkaby. Adv. and/or
Sophie Tikotzki, Adv. and/or Warud Salman, Adv.
12C Hachavazelet Street, P.O.Box 850
Jerusalem 91008
Tel.: 02-6221611, Fax.: 02-6235277

The Plaintiff

v.

National Insurance Institute
Represented by the legal department
4 Ben Shetach Street, Jerusalem

The Defendant

Statement of Claim

1. The Plaintiffs, minors (born on July 8, 2005 and December 1, 2007 respectively), residents of Jerusalem, and registered as residents of Israel in the Population Registry, hereby submit this claim through their mother in the matter of their entitlement to an income maintenance allowance and a child allowance.
2. In February 2011, the Plaintiffs submitted a claim through their mother for an income maintenance allowance which was denied on February 24, 2011 because, as claimed, the Plaintiffs were only recognized as residents of Israel from February 2011 and did not accumulate 24 consecutive months of residency.

A copy of the letter of February 24, 2011 denying the claim is hereby attached and marked **A'**.

3. The Plaintiffs and their father have a permanent resident status in Israel. The Plaintiffs' mother has no legal status in Israel although she lives here in practice.

The Plaintiffs' father is serving a prison term, as substantiated by a Prisons Service confirmation, a copy of which is hereby attached and marked **B'**.

4. The Plaintiffs will argue that they lived with their mother in Israel in the past and do so today – from the time they were born and until the end of 2008, the Plaintiffs lived with both their parents in the apartment of their father's uncle al-Salam in Jerusalem.
5. In January 2009, the Plaintiffs and their parents moved to a rented home Isawiya where they remained until May 2009.
6. In June 2009, the Plaintiffs' father was placed under house arrest and they moved, with their parents, to their father's parents' house in Wadi el-Joz in Jerusalem where they remained until October 2010.
7. In October 2010, the Plaintiffs and their mother moved to a rented apartment in Isawiya, where they continue to reside until today. The Plaintiffs' father was under house arrest until February 2011 and then began serving a prison term.
8. The Plaintiffs will claim that they are entitled to an income maintenance allowance pursuant to Article 2(d)(2) of the Income Maintenance Law 5741-1980 (hereinafter: "the law") under the addition to paragraph 25 of the first addendum to the law which states:

“(25) When one parent of a child who is a resident of Israel, and who is also a resident of Israel, is in detention or is serving a prison term exceeding 30 days, and the child resides with his other parent who is not a resident of Israel;”

9. The Plaintiffs will claim that the above Article 2(d)(2) of the law and the addition to paragraph 25 do not explicitly stipulate the minor's residence in Israel for two years as a condition for entitlement to the allowance.
10. The Plaintiffs will claim that the Defendant's position requiring the accumulation of 24 months of residency as a condition of entitlement in a minor's claim to income maintenance due to the imprisonment of his parent who is a resident, and in the absence of a legal status in Israel of his non-resident parent, is unreasonable and unlawful.
11. The Plaintiffs will argue that it is inconceivable that a minor under two years old will not be able to claim an income maintenance allowance through his guardian when he meets the condition set in paragraph 25 of the first addendum to the law, only due to the fact that he had not accumulated 24 months of residence. Such a position is contrary to the purpose of the law amendment which set an additional ground for a claim in paragraph 25 of the first addendum to the law, whose purpose is to ensure such minors a minimal livelihood.

12. The Plaintiffs will argue that the Defendant's position as above stated is unconstitutional and discriminates against children under the age of 24 months of an imprisoned parent, who is an Israeli resident, when the other parent has no legal status in Israel, because of their age. It is impossible to find any justification for discriminating against minors under two years of age, as opposed to those who turned two, in relation to the entitlement to an income maintenance allowance. This is unlawful and unconstitutional discrimination.
13. Should it be held that the provisions of the law do not entitle a minor who meets the conditions for eligibility for the allowance under paragraph 25 of the first addendum to the law solely because he has not accumulated two years of residency because he is under two years of age – then this is a matter of discriminatory legislation which is destined to be voided as it is unconstitutional.
30. The Honorable Court is vested with the territorial and substantive jurisdiction to hear this claim.
14. Therefore, the honorable court is hereby requested to summon the Defendant and order him to pay the plaintiff income support allowance from the month of February 2011 on. In addition, it is hereby requested to order the Defendant to pay trial expenses and attorney fees together with VAT as prescribed by law.

Today: May 1, 2011

[Handwritten signature]

Bassam Karkaby, Advocate
Counsel for the Plaintiff