

IN THE HIGH COURT OF SOLOMON ISLANDS

RUSSELL ISLAND PLANTATION LIMITED

Plaintiff

SOLOMON ISLAND NATIONAL UNION OF WORKER

1st Defendant

WILLIAM TAKASI AND OTHERS

2nd Defendant

Summons for declaratory orders.

Reasons for Decision.

Ex parte summons for injunctive orders preventing strike action.

At Honiara

06 July 2004

Brown J. From reading the letter of Gabriel Suri dated 1 June to the Panel, it seems that an award of the Panel was delivered on the 21 May. It further seems that after a hearing by the Panel but before the publication of the award, two things happened; the 1st was the sacking of Mrs. Mosley Hapa, an employee and the second was the demand by the workers for the removal of RIPEL General Manager John Whiteside. This latter was apparently an issue, numbered K in the union's earlier referral to the Panel. Mr. Suri says on p 2, speaking of the award "*the Panel rules that issue 'K' had been resolved amicably.* Because of the threatened strike then, on the 1 June, the issue of the removal of Whiteside was referred as a "fresh dispute" for the Panel. So it is clear RIPEL does not see that issue as having been the subject of the earlier award. I do not have the award but Mr. Suri raises in his letter, many matters which appear to need clarification in relation to the terms of the earlier award. Now I'm told the company has sacked some 13 other workers, commencing on the 2 June.

None of those sacking appear to be the subject of a referral to the TD Panel by either party.

The Panel did acknowledge by letter of 4 June 2004 that the referral by Mr. Suri of the dispute over Whiteside was a live issue and set a date for a preliminary hearing. That hearing seems to have been vacated.

Further, on the 9 June the Panel answered Mr. Suri queries in relation to the other issues that he raised. Effectively, issues a b c j & k did not form part of the award.

But more importantly the chairman said on p2 "at the review of the Panel award on the 18 June 04 it will be considered whether or not the issue over demand for the removal of the General Manager should be considered as a separate referral as it stands now (our reference L9/11/04) all parties are reminded s.10 still applies to the dispute."

There is, then the clear acknowledgement that issues a b c j may become matters for reconsideration again, by the Panel in conjunctions with k (the Manager) which has been treated as a dispute.

On what Ms. Samuel tells me, the dispute has obviously widened by the fact of the sacking. This has not it seems, been referred to the Panel.

I am not satisfied that I should exercising discretion at this time, to order injunctive stops to the industrial action. It seems the better course is to oblige the parties (and the applicant has the greater interest if losses are envisaged) to go back to the Panel with some urgency, naming the various matters now in dispute and seeking a resolution. This court cannot stand in place of the panel, it cannot resolve a dispute. It would seem unfair to attempt to use injunctive orders to force the workers back to work when the court cannot address their grievances. That is the panels job.

I refuse to make injunctive orders.

The better course is for either party to seek to widen the matters for the Panel to consider on this dispute and obtain our early hearing.

The originating summons may proceed in the normal course, if necessary, by allowing the respondents time to answer the claim.

Orders:

- 1 Injunctive orders are refused.
- 2 The ex part summons of the applicant seeking injunctive and other incidental orders is dismissed.
- 3 The originating summons may proceed in the usual way.