

TRADE DISPUTES PANEL, SOLOMON ISLANDS
Under the Unfair Dismissal Act 1982

UD/180/89

Between: EDDIE KOTI Applicant
and: TOBATAIBURI LIMITED Respondent

Hearing at Honiara on 6 September 1990.

H Macleman Chairman
G Kuper Member
J Adifaka Member

For the applicant: C Waiwori, Assistant General Secretary, Solomon Islands
National Union of Workers.

For the respondent: Mr Sosimo.

F I N D I N G S

Mr Koti was employed as an accounts clerk by Tobataiburi Limited, a small family owned company running a store, from 1 August 1987 until 1 September 1989. On 14 September 1989 he lodged complaint of unfair dismissal. The respondent company did not lodge notice of appearance. After the notice of full hearing was sent out, however, the manager of the company sent the Panel a letter suggesting that the dispute was a "family matter" which had already been settled "in custom".

At the hearing Mr Sosimo sought an adjournment on the company's behalf, so that the manager might attend. Mr Sosimo said that his interest was as the uncle of the owners of the company (and of the applicant). As there had been ample time for the respondent to prepare itself for a hearing or try to settle the case, and the applicant wished to proceed, we declined to adjourn and felt it better to hear and dispose of the case.

In spite of his tenuous connection, we permitted Mr Sosimo to take part in the proceedings.

The applicant said that he had taken his agreed leave from the company in 1989 but received no holiday pay. He had consulted a union official, who took the matter up on his behalf. On his return from holiday he was immediately sacked, no reason being given.

On that uncontradicted account, the dismissal was clearly unfair. The applicant secured a better paid job in March 1990, and from September 1989 until taking up that job he worked part-time at Honiara Consumers.

In all the circumstances we assess compensation at the equivalent of the redundancy payment to which he would have been entitled, plus one months gross pay, and interest to date.

Applying the formula under s. 7 of the Employment Act 1981:-

1.8.87 - 1.9.89	=	106 weeks	
106 x $\frac{1}{26}$ x (325 x 12 + 52)	=		\$ 305.77
1 months gross pay			325.00
			<hr/>
			\$ 630.77
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AWARD

The respondent unfairly dismissed both applicants and is to pay compensation of \$630.77 with interest at 15% per annum from 1 September 1989 until payment (all payable immediately and recoverable as a debt under s. 10 of the Unfair Dismissal Act 1982).

EXPENSES

The Panel fixes a contribution of \$75 towards its expenses to be paid by the respondent to the Ministry of Commerce and Primary Industries within 14 days of this date.

APPEAL

- (1) There is a right of appeal to the High Court within 14 days on a question of law only: Unfair Dismissal Act 1982, s. 12; Trade Disputes Act 1981, s. 13; Trade Disputes Panel Rules 1981, r. 11; High Court (Civil Procedure) Rules 1964, O. 30 r. 3.
- (2) Any party aggrieved by the amount of compensation awarded may within one month of the date of the award appeal to the High Court; Unfair Dismissal Act 1982, s. 7(3).

Issued to parties on 20 September 1990.

On behalf of the Panel


(Hugh Macleman)

CHAIRMAN/TRADE DISPUTES PANEL