

IN THE TRADE DISPUTES PANEL

UDF NO.85/2015

SOLOMON ISLANDS

BETWEEN: MIKE BATU

(Complainant)

AND: SOLRICE LIMITED

(Respondent)

Panel:

1. Natalie Tadiki Kesaka	- Chairman
2. Wickly Fage	- Employer Representative
3. John Zoti	- Employee Representative

Appearances: Mr. Berry Kepulu for the Complainant

Respondent Barred

Date of hearing: 12.07.2016

Finding delivered: 8.11.2017

FINDING

1. By complaint (TDP 1) was lodged to the Panel on the 13.10.2015, the complainant claimed he was unfairly dismissed by the respondent on the 18.08.2015.
2. The respondent was barred from taking part in this proceeding on the grounds that they had failed to appear before the panel on the 18.05.2016 and 12.07.2016 respectively although they did file the TDP (2) on the 13.10.2015.

3. In his sworn evidence the complainant told the Panel he was employed by the respondent on the 11.02.2014 and dismissed on the 18. 08.2015.
4. During the course of his employment with the respondent the complainant's job was to unload rice from containers onto pallets to be sent to the ware house and to do general cleaning.
5. Work starts at 8 am and finishes around 4 pm daily. He was given a two weeks break when rice containers did not arrive.
6. He was paid \$50 per day meaning he would get \$250 on a weekly basis. This was given in an envelope with no pay slip.
7. He did not sign a contract of employment when he was recruited by Mr. Lee Laejama for 1 year and six months to work for the respondent.
8. The complainant stated that he was concerned about his employment status after 1 year and 6 months so he went to see Mr Brown Pwai at the Commissioner of Labour's Office to seek advice.
9. A letter was written on his behalf to the Respondent's manager. The letter dated 17th of August 2015 was exhibited in court. (Exhibit marked. MB No. 1)
10. The letter in summary raised concerns about the complainant's employment period, the status of his employment and his entitlements.
11. Letter from the Commissioner of Labour was delivered to the Manager on the 17th of August 2015. All workers recruited by Lee Laejama to work for the respondent were terminated on the 18th of August 2015 a day after the letter from the Commissioner of Labour was delivered to the Manager.
12. The respondent did not issue any termination letter to the complainant.
13. The complainant sought advice from the Commissioner of Labour office. Another letter was written on his behalf to the Respondent's Manager. Letter dated 7th of September 2015 was exhibited in court (Exhibit Marked MB No.2)
14. In his letter to the Respondents Manager Mr Brown Pwai confirmed receiving the complainant's grievances and explained complainant's situation and legal options to the respondent.
15. Letter reiterated the reinstatement of the complainant to his normal duties.
16. There was no reply so the complainant proceeded to filing his case.

17. Having observed the complainants demeanour when giving evidence in the witness box the Panel is not hesitant to accept his evidence as truthful and reliable.
18. It is evident from the complaints evidence which was unchallenged that his abrupt termination was due to the letter he delivered to the Respondent's Manager on the 17th of August which related to his employment period, the status of his employment and his entitlements.
19. The compliant was clearly never warned of any issues relating to his employment by the respondent. He was never given an opportunity to respond or to question his termination, he was never served with a notice by the respondent.
20. A termination letter should have issued to complainant to explain the reasons for his termination. The termination is therefore not proper.
21. On this basis the Panel finds that the complainant was unfairly dismissed.

AWARD

22. In awarding compensation, the Panel notes that the complainant has worked for the respondent for 1 year and 6 months. He was not paid a months' notice upon termination. And was still without a job at the time of the hearing.
23. Compensation is therefore calculated as follows;

1. One – month pay in lieu of notice	-	\$ 1000
2. Loss of employment (1.2 x \$1000)	-	\$ 18,000

3. TOTAL		\$ 19,000
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ORDER

1. The respondent is to pay the sum of \$ 19,000 as the compensation to the complainant for his wrongful dismissal within 14 days.
2. The respondent to pay \$1000 towards panel costs within 14 days.