

IN THE TRADE DISPUTES PANEL

UDF NO.57/2016

SOLOMON ISLANDS

BETWEEN: DORIS HARE

(Complainant)

AND: CORAL SEA CASINO

(Respondent)

Panel: 1. Natalie Tadiki Kesaka - Chairman
2. Brayan Ulufia - Employer Representative
3. Unice Kiko - Employee Representative

Appearances: Mr. Berry Kepulu for the Complainant

Respondent Barred

Date of hearing: 10.09.2019

Finding delivered: 06/03/2020

SUMMARY OF FACTS

1. Miss DORIS HARE herein referred to as the complainant filed a complaint with the Trade Disputes Panel on the 13/06/2016 alleging that she was unfairly dismissed from employment by the Coral Sea Resort and Casino.
2. The matter was listed on the 25/05/2016 for a pre hearing at which time the Respondent appeared but the complainant did not.

3. Another listing occurred on the 05/07/2017 but both parties failed to appear on this date.
4. On the 30/08/2017 both parties appeared before the Panel and agreed to settle the matter out of court.
5. On the hearing listed on the 11/04/2018 both parties confirmed that there was no progress on the negotiations for out of court settlement but they are willing and able to revisit and to pursue the idea.
6. The matter was relisted on the 31/07/2018 but both parties failed to appear, another hearing was listed for the 07/08/2018 at which time Respondent did not appear. The complainant progressed with an application for the Respondent to be barred from further proceedings on this occasion.
7. An order barring the Respondent from taking part in the proceeding under Rule 7(2) of the Unfair Dismissal Act was issued by the Panel.
8. After this the matter was listed for a full hearing on the 27/03/2020 but was vacated.
9. The full hearing was listed on the 10/09/2019 and completed the same day.

THE COMPLAINANTS EVIDENCE

10. The complainant stated under oath that she was employed by the respondent from the 29/11/2009 to the 10/06/2016 as a card dealer.
11. Her job as a card dealer means she deals cards for customers who are playing in the casino.
12. The day in question was sometime in May of 2016, she did not recall the exact date.

13. She stated that on that day she was attending to a Roulette Table she was assigned to on that shift with her partner. She started at around 8am and finished at 5pm. It was a usual routine working day.
14. She stated that she only came to realise that something went wrong when she was summoned by the General Manager Mr. Harry Steward on the 09/06/2020 and was being questioned about an alleged theft of chips by her dealing partner.
15. She stated that Mr Steward had called her into his office and gave her a termination letter dated 10/06/2016. Letter was exhibited in court. That there was no warning written or verbal about the incident. That there was no report being made to the Police about the alleged theft.
16. The complainant stated that she was not satisfied with her termination and attended the Commissioner of Labour's Office. The Commissioner of Labour wrote a letter to the respondent on the 14/06/2016. There was no response. Another letter was sent on the 18/08/2016. No response was received as well.
17. Complainant confirmed that there was no Police investigation in relation to the accident.
18. She stated that the only money she received from the respondent with her termination letter was her pay for the fortnight that week which was \$800.00 only.
19. She stated that she made several attempts to see the general manager to explain her self but she was not afforded the opportunity to do so. She then pursued her matter further.

THE LAW

Section 4 of the Unfair Dismissal Act CAP 77 states that;

(1) An employee who is dismissed is not unfairly dismissed if-

(a) he is dismissed for a substantial reason of a kind such as to justify the dismissal of an employee holding his position; and

(b) in all the circumstances, the employer acted reasonably in treating that reason as sufficient for dismissing the employee.

THE PANELS ANALYSIS

20. The Panel had the opportunity of observing the complainant's demeanour in the witness box.
21. She was a reliable witness. She was truthful and answered all her questions asked of her in a reliable manner.
22. She was not satisfied with her termination and insisted to explain herself but she was denied this opportunity on all occasions.
23. On this basis the Panel accepts the evidence of the complainant and is satisfied that the respondent acted unfairly in terminating the complainant.
24. Panel is satisfied that there was no substantial reason for terminating the complainant.

AWARD

25. Compensation is calculated as follow;

a. One month pay in lieu of notice	\$ 800.00 x 2 =	\$ 1,600.00
b. Loss of employment	\$1,600.00 x 10 =	\$16,000.00
c. Holiday Accrued		\$5,000.00

TOTAL **\$ 22,600.00**

ORDERS BY THE PANEL

26. The Respondent is hereby ordered as follows;
- a. The Respondent to pay the sum of **\$22,600.00** to the complainant for her wrongful dismissal within the next 14 days.
 - b. The Respondent is to pay the sum of **\$3,000.00** towards Panel expenses with the next 14 days.

APPEAL

27. The right of Appeal to the High Court with 14 days.

BY THE PANEL



Natalie TadiKI Kesaka
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CHAIRMAN

NATALIE TADIKI KESAKA