

NO. 49 OF 2005

AWARD

of

THE ARBITRATION TRIBUNAL

In the Dispute Between

**NATIONAL UNION OF HOSPITALITY CATERING AND
TOURISM INDUSTRIES EMPLOYEES**

and

CENTREPOINT HOTEL

NUHCTIE : Mr F Anthony with Mr T Naivaluwaqa
CENTREPOINT: Mr P Jaguram

DECISION

This is a dispute between the National Union of Hospitality, Catering and Tourism Industries Employees (the "Union") and Centerpoint Hotel (the "Employer") concerning the termination of employment of Mr Apocosa Tamaiyale and Mr Jackson Duasuva (the "Grievors")

A trade dispute was reported by the Union on 26 January 2002. The report was accepted on 28 March 2002 by the Permanent Secretary who referred the Dispute to conciliation. As the dispute was not resolved a deadlock was declared and the Minister authorized the Permanent Secretary to refer the Dispute to an Arbitration Tribunal for settlement pursuant to the Trade Disputes Act Cap. 97.

The Dispute was referred to the Permanent Arbitrator on 4 December 2002 with the following terms of reference:

"... for settlement over the termination of Messrs Aporosa Tamaiyale and Jackson Dugasava with effect from 21 January 2002 which action the Union claims as unfair and unjustified and therefore seeks their re-instatement without loss of benefits".

The Dispute was listed for a preliminary hearing on 3 April 2003. On that day the parties were directed to file preliminary submissions by the end of July and the Dispute was listed for hearing on 26 August 2003. The Employer filed its preliminary submission on 31 July and the Union did likewise in August 2003.

At the request of the Employer the hearing date was vacated and the Dispute was re-listed for mention on 7 October 2003. The Dispute was subsequently listed for hearing on 19 November 2003.

Due to the appointment of a new Permanent Arbitrator it was necessary to re-list the hearing which was subsequently conducted at Labasa on Thursday 6 May 2004.

At the hearing the Employer indicated that it did not intend to call any evidence. The Union called one witness, Mr Jackson Dugasava, one of the two Grievors, to give evidence. The parties also indicated that the Dispute in respect of Mr

Apomosa Tamaiyale was to be withdrawn and the proceedings discontinued by consent. At the conclusion of the evidence, the parties sought and were granted leave to file final written submissions. The Employer filed its final submission on 15 July 2004. The Union filed its answering submission on 30 March 2005.

As the Employer had not filed any reply submission nor given any indication to the Tribunal as to whether a reply submission would be filed, the Dispute was listed for mention in Labasa on 20 September 2005.

On that occasion the Employer indicated that it intended to file a reply submission.

The Employer was directed to file and serve a reply submission within 7 days. By e-mail dated 26 September 2005, the Employer informed the Tribunal that the parties had settled the Dispute. Enclosed with the letter was a copy of a memorandum of agreement dated 25 September 2005 signed by the parties.

CONSENT AWARD

The Dispute in respect of Mr Jackson Duasuva is settled in accordance with the signed memorandum of agreement dated 25 September 2005, a copy of which is attached to this Award. The Dispute in respect of Mr Apomosa Tamaiyale is withdrawn and the proceedings discontinued.

DATED at Suva this day of October 2005

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ARBITRATION TRIBUNAL