

AWARD

OF

THE ARBITRATION TRIBUNAL

OF

THE REPUBLIC OF THE FIJI ISLANDS

NO. 15 OF 2006

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In the Dispute Between

**BUILDING CONSTRUCTION, TIMBER AND ALLIED WORKERS
UNION**

and

FENNING PACIFIC (FIJI) LIMITED

BCTAWU : Mr P Rae with Mr J Paul
Fenning : Mr J Usumaki

DECISION

This is a Dispute between the Building Construction Timber and Allied Workers Union (the "Union") and Fenning Pacific (Fiji) Limited (the "Employer") concerning the termination of employment of Manasa Nairebu (the "Grievor").

A trade dispute was reported on 20 July 2004 by the Union. The report was accepted on 2 August 2004 by the Chief Executive Officer who referred the Dispute to a Disputes Committee. As a consensus decision was not reached, the Minister authorised the Chief Executive Officer to refer the Dispute to an Arbitration Tribunal for settlement pursuant to section 5A(5)(a) of the Trade Disputes Act Cap.97.

The Dispute was referred to the Permanent Arbitrator on 27 September 2004 with the following terms of reference:

"..... for settlement over the termination of employment of Manasa Nairebu a yard inspector whilst serving his suspension. The Union contends that the Company's action as too harsh, unfair, unjustified and unwarranted and demands his immediate re-instatement without loss of pay and benefits for the period he was denied work".

The Dispute was not listed for preliminary hearing until 19 November 2004, due to the non-availability of the Employer's management.

On that day the parties were directed to file preliminary submissions by 20 December 2004 and the Dispute was listed for mention on 26 January 2005. There was no appearance by or on behalf of the Union on that day nor on 25 February 2005. When the Dispute came on for mention on 30 March 2005 the parties sought a hearing date. The Tribunal then listed the Dispute for hearing on 9 August 2005.

The parties filed their preliminary submissions prior to the hearing date. The Union then made an application by letter for the hearing date to be vacated. The tribunal considered the application and directed

that the hearing date be vacated. The Union was directed to pay \$20.00 out of pocket expenses to the Employer as costs thrown away within 14 days. The dispute was listed for mention on 26 August 2005.

Due to unforeseen circumstances that date was vacated and the Dispute was subsequently listed for mention on 30 September and 25 November 2005. The Dispute was then listed for hearing on 14 March 2006. When the Dispute came on for hearing the parties requested time for further discussion and to finalise the terms of a settlement. The parties then informed the Tribunal that they were in a position to hand up a signed Memorandum of Agreement dated 14 March 2004 for the purpose of obtaining a consent award from the Tribunal.

CONSENT AWARD

The Tribunal's Award is in the terms of a signed Memorandum of Agreement dated 14 March 2006 a copy of which is annexed to this Award.

DATED at Suva this 21st day of March 2006

W. Calanchini
.....

ARBITRATION TRIBUNAL

It is hereby agreed between the parties that the Trade Dispute herein is settled as follows:

Dispute No. 58/2004

1. Fenning Pacific Ltd will make an ex-gratia payment to Manasa Nairebu of \$4203 (less FNPF).
2. The employer will pay FNPF deduction and the employer contributions on the above sum into the grievor's FNPF account.
3. The net sum payable to the greivor will be paid to the Union by 31 March 2006.
4. The dispute is otherwise resolved.

Dated at Suva on 14 March 2006.

**For and on behalf of
FENNING PACIFIC LTD**

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**Josua Usumaki
Director/Operations Manager**

**For and on behalf of
BCTAWU**

.....
**John Paul
Industrial Advisor**