



**Employment  
Relations Tribunal**

# Ex Tempore Decision

**Title of Matter:** Labour Officer  
v  
National Fire Authority of Fiji (NFA)

**Section:** Section 8 Workmen's Compensation Act 1964

**Subject:** Compensation in case of permanent partial incapacity

**Matter Number:** ERT WC Case No 60 of 2018

**Appearances:** Ms R Kadavu, Labour Officer, on behalf of Amasa Naului  
Ms M Latianara, Legal Officer, NFA, for the Respondent

**Date of Hearing:** Thursday 4 July 2019

**Before:** Mr Andrew J See, Resident Magistrate

**Date of Decision:** 4 July 2019

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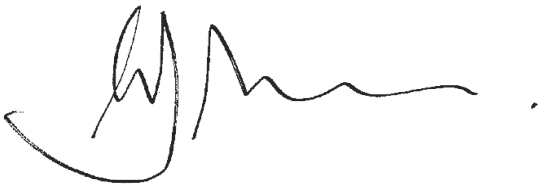
- [1] Having heard from Counsel for the Respondent, it appears clear that this is an application for enforcement of compensation purportedly made in accordance with Section 17 of the *Workmen's Compensation Act 1964*. The problem for the Applicant, is that the claim has been commenced outside of the available six year window, of which there is no discretion for this Tribunal to extend such period.
- [2] On that basis and for the reasons clarified in *Labour Officer v Nirmala Holdings trading as Oceanview Hotel*,<sup>1</sup> the claim is made out of time. Counsel for the Labour Office has acknowledged that fact.
- [3] This Tribunal has no jurisdiction to deal with the matter and it must be struck out on that basis. It is nevertheless noted, that the Worker had been employed with the Respondent Employer for 30 years. It is also noted that the occupational health and safety risks for firefighters are

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<sup>1</sup> [2016] FJET4, ERT WC 116 of 2016 (2 December 2016)

well known<sup>2</sup>. Only the Employer will know whether or not it has complied with its obligations to the Worker in this regard.

- [4] Whilst the Tribunal has no further work to do in this matter, it regardless, sees the circumstances that gave rise to the claim as warranting some consideration by the Employer.
- [5] It is therefore recommended that the parties confer to see whether some outcome beneficial to the interests of all, can be achieved. There is no order to be made in relation to costs.



**Andrew J See**  
**Resident Magistrate**

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<sup>2</sup> In relation to smoke inhalation, this is due to the toxic nature of the smoke particulates and gases contained within. Obviously the particulates and toxic gases will all have different and wide ranging exposure standards, none of them good, but obviously some a lot worse than others. For example during a grass fire, the smoke has a lot less contaminants than say a car fire. One would assume that as such, respiratory protection must be worn for all smoke, unless of course a Photo-ionisation Detector (PID) may indicate that the toxic levels are otherwise safe. In the case of grass fires, best practice would appear to dictate that firefighters wear a negative pressure full face mask with a filter canister. Any smoke other than from a grass fire would generally contain highly refined oils in its make-up and the health and safety measures would include the wearing of breathing apparatus (positive pressure full faced mask, powered by cylinders filled with breathable air).