TRADE DISPUTES PANEL, SOLOMON ISLANDS

Under the Unfair Dismissal Act 1982 and the Employment Act 1981

UD/60/90

Between:

ALPHY RUSA

Applicant

and:

PACIFIC ELECTRICS LIMITED

Respondent

Hearing at Honiara on 27 November 1990 before:

H Macleman

Chairman

F Mahlon

Member

F Koraimae

Member

For the applicant: M B Samuel, Public Solicitor's Office.
No appearance for the respondent.

FINDINGS

Pacific Electrics Limited employed Mr Alphy Rusa as an electrician from 1 January 1985 to 15 December 1989. On 14 March 1990 he lodged a complaint of "unfair dismissal". At part 12 of Form TDP1 he gave as his opinion of the reason for dismissal:-

"I was forced to resign because employer does not want to pay my redundancy payment".

The employer did not lodge notice of appearance, nor seek to take any part in the proceedings. At the hearing the applicant's evidence was that his employment had been terminated without any reason being given. Later others were paid off too. The company accountant had told him later that the reason for paying him off in the way it was done was simply to avoid a redundancy payment.

Section 4(2) of the Employment Act 1987 states:-

"Where an employee has been dismissed by his employer and the question whether he is entitled to a redundancy payment is referred to the Trade Disputes Panel or any court, then for the purposes of the reference, the employee shall be presumed to have been dismissed because of

redundancy unless the contrary is proved."

Applying the formula under section 7 of that Act:-

1.1.85 - 15.12.89 = 206 weeks

$$\frac{1}{26}$$
 x (179 x 12 + 52) = \$327.28

Pacific Electrics Limited is ordered to pay that sum to Mr Rusa immediately. There is a right of appeal, on a question of law only, within 14 days.

EXPENSES

The Panel fixes a contribution of \$200 towards its expenses to be paid by the respondent to the Ministry of Commerce and Primary Industries within 14 days of this date.

On behalf of the Panel

Hal Maleman

(Hugh Macleman)

CHAIRMAN/TRADE DISPUTES PANEL