

TRADE DISPUTES PANEL, SOLOMON ISLANDS

Under the Unfair Dismissal Act 1982

UD/20/89

Between:

LUKE LEONGA

Applicant

and:

SOLOMON ISLANDS PORTS AUTHORITY

Respondent

Hearing at Honiara on 9 October 1990.

H Macleman      Chairman

G Kuper          Member

J Adifaka        Member

For the applicant:    C Waiwori, Assistant General Secretary, Solomon Islands  
National Union of Workers.

No appearance for the respondent.

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F I N D I N G S

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Solomon Islands Ports Authority employed Mr Luke Leonga from 16 November 1982 until 6 January 1989. In its notice of appearance, the Authority admitted dismissing the applicant, but sought to justify that on grounds of "absenteeism" and returning late to duty after previous warnings. It was thus up to the Authority, in terms of sections 4 and 6(6) of the Unfair Dismissal Act 1982, to establish substantial reason for the dismissal and that it acted reasonably in coming to its decision; however, no representative turned up at the hearing. We heard evidence from the applicant that he went on leave to Malaita on the evening of 25 December 1988 for one week, intending to bring his family back to Honiara with him. The weather became rough and Marine Division called ships back to Honiara. He heard a service message from the Authority recalling its workers. The same evening he was able to board a ship and returned to work the next morning, 3 January 1990, but was immediately taken before a disciplinary committee, then sacked. He produced the relative memorandum to him by the Manager Training. Apart from absences from work in August 1988, he denied the prior allegations against him recorded therein.

On the evidence available to it, the Panel finds the dismissal clearly unfair, and assesses compensation at the equivalent of the redundancy award to which the applicant would have been entitled plus one further month's basic pay and

interest to date.

Applying the formula under s. 7 of the Employment Act 1981:-

$$\begin{array}{rcl}
 16.11.82 - 6.1.89 & = & 320 \text{ weeks} \\
 320 \times \frac{1}{26} \times (196 \times 12 + 52) & = & \$ 556.69 \\
 1 \text{ month basic} & & 196.00 \\
 & & \hline
 & & \$ 752.69 \\
 & & =====
 \end{array}$$

#### AWARD

The respondent unfairly dismissed the applicant and is to pay him compensation of \$752.69 plus interest at 15% per annum from 6 January 1989 until payment (payable immediately and recoverable as a debt under s. 10 of the Unfair Dismissal Act 1982).

#### 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.

#### APPEAL

- (1) There is a right of appeal to the High Court within 14 days on a question of law only: Unfair Dismissal Act 1982, s. 12; Trade Disputes Act 1981, s. 13; Trade Disputes Panel Rules 1981, r. 11; High Court (Civil Procedure) Rules 1964, O. 30 r. 3.
- (2) Any party aggrieved by the amount of compensation awarded may within one month of the date of the award appeal to the High Court; Unfair Dismissal Act 1982, s. 7(3).

Issued to parties 9th October 1990.

On behalf of the Panel

*Hugh Macleman*

(Hugh Macleman)

CHAIRMAN/TRADE DISPUTES PANEL