

IN THE EMPLOYMENT RELATIONS COURT AT SUVA
CENTRAL DIVISION
CIVIL JURISDICTION

ERCC 11 of 2022

BETWEEN:

RONALD RAJESH KUMAR

PLAINTIFF

AND:

FIJI NATIONAL UNIVERSITY

DEFENDANT

For the Plaintiff	:	Mr Nair D.
For the Respondent	:	Mr Haniff F.
Date of Trial	:	3 June 2024
Date of Decision	:	8 May 2025
Before	:	Waqainabete-Levaci, SLTT, Pusine Judge

J U D G E M E N T

Background

1. The Plaintiff was employed as Director Research with the Defendant University from 4 March 2020 until his contract was terminated on 25 July 2022.
2. Aggrieved, the Plaintiff filed a Writ of Summons for unlawful, unjust and harsh dismissal. He now claims for balances of the unexpired portion of the employment contract, general damages, interests and costs.
3. The Defendant denied the Claim and sort for the claim to be dismissed.

EVIDENCES OF PARTIES

4. In his evidence the Plaintiff testified that he was given an employment contract from 4th March 2020 to 31st December 2021 as Director Research. This contract was further extended for another 3 years until his termination on 25th July 2022. The position was newly established and was under the supervision of Pro Vice Chancellor Research. He was later offered a similar position with Segran Holdings Limited as a Director Research in March of 2021 which was made known to the Pro Vice Chancellor through various meetings at his office together with his written resignation. The Pro Vice Chancellor refused to accept his letter of resignation and upgraded his salary from level 2 to level 6 by a letter dated 4th May 2022 together with an offer for bonus payment of \$10,000 on performance basis. On 27 July 2022 a letter of termination with his salary for 3 months in lieu of notice. He contested clause 14 of the contract regarding termination.
5. In cross-examination, he admitted receiving his Certificate of Service in accordance with the Employment Act, however he was unable to find any other meaningful employment. He admitted clause 2.1 stated that the contract was for 3 years unless ended earlier. He admitted clause 14.2 enable the Employer to issue a 3 months notification of termination or payment for 3 months in lieu of notice. He admitted the Addendum to the contract extending his term of contract applied all terms and conditions in the original contract. He admitted the Defendant gave 3 months' salary in lieu of notice. He had not mentioned in pleadings intentions by the Defendant to retain him after he gave his resignation. He admitted receiving the termination letter at 2.30pm and that his emails would be disconnected by 4pm and admitted leaving after 4pm. He still claimed he was treated unjust and not ethical and terminated without cause.
6. The Defendant called Ms Ram to give evidence. She admitted the Plaintiff was given a letter of termination on 25 July 2022 and delivered on the same date to him around lunch between 2pm to 2.30pm. The letter was given by her accompanied by Professor Roland, the immediate supervisor. The entered and Professor Roland served him with the letter. The Plaintiff did not ask for further time to gather his belongings. His email was disconnected as per the letter at 4pm in order to avoid terminated staff from deleting email contents and files.
7. In cross-examination admitted the process was for HR staff with the immediately supervisor, would visit and hand over the letter of termination to the staff. They are required to fill the boarding off form and exit form. She was unaware whether Plaintiff filled the forms or not. She was aware exit form was filled, the reason why Certificate

of Service was issued. She could not recall taking the forms to the Plaintiff. She admitted emails and access to the systems was disconnected, not the internet at 4pm. She had no record of the disconnection although information was given to IT to disconnect at 4pm. The Plaintiff handed over to the Supervisor. The termination letter was signed by Professor John who was working from home in Australia. She denied giving the Plaintiff an ultimatum to leave the work premises in 1 hour. The letter may have been interpreted by Professor John to the plaintiff.

8. In re-examination she admitted no final pay would be processed unless an Exit form was filed.

SUBMISSIONS

9. In their Submissions, the Plaintiff argued that Central Manufacturing Company Ltd -v- Yashni Kant CBV 0010 of 2002 stipulates an implied term in the contract for the employer to deal with the employee fairly, with appropriate respect and dignity in dismissal. He then argued that the manner in which the Plaintiff was terminated only 2 months after his contract was fixed for 3 years was bad faith, unfair, without respect or dignity and was oppressive. Reference was also made to the case of Niranjans Autopart -v- Kumar [2023] FJCA 41; ABU 116 of 2019 where it was held that :

“While a dismissed employee was not entitled to compensation flowing from the fact of dismissal itself, where it could be shown that an employer engaged in bad faith conduct or unfair dealing in the course of dismissal, injuries such as humiliation, embarrassment and damage to self-esteem might all be worthy of compensation.”

10. The Plaintiff argued that the Defendant terminated his employment without consideration for his future employment and no absolute unfettered discretion was given to the Defendant to exercise their powers, more particularly in employment (Fereti Dewa -v- USP JR 0007 of 1994.)
11. The Defendant argued that the Plaintiff had agreed upon the terms of the Employment Contract and hence in accordance with Leslie Arthur Whale -v- Adrenalin Watersports (Fiji) Limited ERCC 01 of 2025, the parties had voluntarily agreed to the terms and cannot require other reasons to be given for termination where the terms stipulated as such. The Defendant also argued that there was no evidence of the Plaintiff being treated in an unjust, abusive and oppressive manner when his contract was terminated and time was given for him to clear his belongings and exit the premises.

ANALYSIS AND DETERMINATION

12. The Court considered the submissions by parties and their arguments in law.
13. By way of a Writ of Summons, the Plaintiff is claiming for breach of contract by unlawfully or unfairly terminating his contract.
14. In order for the Plaintiff to be entitled to the claim, he must show that the Defendant had acted in bad faith conduct or unfair dealings in order to dismiss the Plaintiff.
15. From the evidences, the Plaintiff admitted that section 14 of the Contract enabled the Defendant to issue a termination letter for 3 months notification or 3 month's pay in lieu of notification.
16. This provision was made known to the Plaintiff who by executing the employment contract, had voluntarily agreed to the same.
17. He admitted he was paid for 3 months in lieu of the notification and a Certificate of Service was issued to him.
18. The Plaintiff argued that he was terminated 2 months after the extension of his contract. That this termination together with the manner in which he was asked to remove himself from the FNU Campus was oppressive and unfair, unjustified amounting to bad faith.
19. I find that there was no act of bad faith or unfair dealings in the manner in which his contract was terminated that day. Although there is an implied term of the contract that the employee will be treated fairly, there was nothing to show he was unfairly treated.
20. He was terminated his contract with a letter and 3 months' pay being given to him, which he did not refuse to accept. Although the timing of the letter of termination was 2 months from when his initial fixed contract was signed,
21. He was working in an organization that needed to protect its properties both intellectually as well as electronically hence the reason why he was warned that his emails would be shut down at 4pm. He was asked to remove himself from the premises on having been handed his termination letter. He accepted the letter as per his evidence, and proceeded to pack his belongings for exit from the premises.
22. From the contract he signed, there was no clause requiring him to serve the contract for a certain period before the contract could be terminated.