

TRADE DISPUTES PANEL, SOLOMON ISLANDS

Under the Unfair Dismissal Act 1982

UD/86/89

Between: CORNELIUS KUKUTI

Applicant

and: EARTHMOVERS (SOLOMONS) LIMITED t/a PACIFIC TIMBERS

Respondent

Hearing at Honiara on 1 November 1990 before:

H Macleman Chairman

F Mahlon Member

H Creighton Member

For the applicant: G Suri, Legal Officer, Solomon Islands National
Union of Workers.

For the respondent: J C Corrin, Barrister & Solicitor.

F I N D I N G S

Pacific Timbers employed Mr Cornelius Kukuti as a foreman carpenter from 12 April to 21 July 1989 at the monthly rate of \$320. The company admitted dismissing him and gave the following reason on Form TBP2:-

"A change in the company policy on the maintenance department as the company wish to encourage sub-contract engagement in the operation."

The employer's representative agreed with the Panel that the "reason" suggested redundancy. She pointed to the shortness of the period of employment as showing a "first in first out" system of selection. In the complete absence of evidence, however, we cannot find that the respondent has established any part of the tests imposed by sections 4 and 6 of the Act.

Mr Kukuti was given only one week's notice pay rather than the month's pay to which he was entitled.

We assess fair and reasonable compensation at \$320 plus interest to date.

AWARD

The respondent unfairly dismissed the applicant and is to pay him compensation of \$320 plus interest at 15% per annum from 21 July 1989 until payment, all

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 apid 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. 60 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 on 6 November 1990.

On behalf of the Panel.

Hugh Macleman

(Hugh Macleman)

CHAIRMAN/TRADE DISPUTES PANEL