

IN THE TRADE DISPUTES PANEL)
OF SOLOMON ISLANDS)

Case No: UDF 5 of 2007

IN THE MATTER of the Unfair
Dismissal Act 1982

AND IN THE MATTER of a
complaint of Unfair Dismissal

BETWEEN: WATSON WATE

Complainant

AND: SAMLIMSAN COMPANY LIMITED

Respondent

Hearing: 30th June, 2009, Honiara.

Decision: 3rd August 2009.

Panel:

Wickly Faga	Deputy Chairman
Edith Fanega	Employee Member
John Vollrath	Employer Member

Appearances: Selson Fafale (COL), for the Complainant
No appearance (barred), for the Respondent

FINDING

The complainant filed his complaint of unfair dismissal with the Panel Secretary on the 5th April 2007. He was employed by the respondent as mechanic at the respondent's workshop at Ranadi, Honiara from June 2005 until his dismissal in or about January 2007. He claimed unfair dismissal on the following grounds;

1. Denial of natural justice
2. No warnings

3. Unsubstantiated allegations

No appearance had been filed by the respondent to admit or not that it had dismissed the complainant. Also prior to the full hearing, the respondent failed to attend or be represented before the Panel despite notices requesting their attendance. The Panel then made an order barring the respondent from taking any part in the proceedings of the matter pursuant to rule 7(2) of the Trade Disputes Panel (Unfair Dismissal & Redundancy) Procedure Rules 1983. During a full hearing of the complaint the Panel heard evidence only from the complainant.

The complainant told the Panel that he had been dismissed for no reason at all. He was only told to rest from duties without giving any reasons for acting as such. He had not been warned any time during his employment with the respondent.

In the TDP Form 1, the complainant was receiving \$380-00 per fortnight at the time of his dismissal.

We heard the complainant's story, and are satisfied that he had been dismissed for no reason. The Panel therefore finds that the complainant had been unfairly dismissed.

In assessing compensation, the Panel took into account the period for which the complainant had been in the employ of the respondent. We also take into consideration the non-payment of a 1 month wage in lieu of notice. The Panel therefore assesses a fair and reasonable compensation as follows.

- | | |
|---|------------|
| 1. One month wage in lieu of notice | \$760-00 |
| 2. Compensatory Award = $BW \times 30 = \$190-00 \times 30 =$ | \$5,700-00 |

Total	\$6,460-00
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AWARD

The respondent unfairly dismissed the complainant and is to pay him compensation of **\$6,460-00**. This is payable immediately and is recoverable as a debt under section 10 of the Unfair Dismissal Act 1982.

EXPENSES

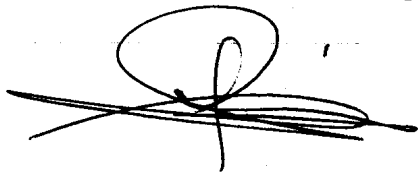
The respondent is to pay the Panel expenses of \$500-00 within 14 days of the date of this finding.

APPEAL

1. There is a right of appeal to the High Court within 14 days on questions of law only; Unfair Dismissal Act 1982, s.12, Trade Disputes Act 1981, s.13; Trade Disputes Panel Rules 1981, r11, Solomon Islands Courts (Civil Procedure) Rules 2008, rule 16.12(a)
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 on the 3rd of August 2009

On behalf of the Panel



Wickly Faga

Deputy Chairman/Trade Disputes Panel