

IN THE TRADE DISPUTES PANEL)

OF SOLOMON ISLANDS)

Case No: UDF 93 of 2011

IN THE MATTER of the Unfair
Dismissal Act 1982

AND IN THE MATTER of a
complaint of Unfair Dismissal

BETWEEN: WATSON MAMAMA

Complainant

AND: EXFIELD BAKERY LIMITED

Respondent

Hearing: 11th September, 2012, Honiara.

Decision: 10th December 2012.

Panel: Wickly Faga Deputy Chairman
- Employee Member
Sika Manuopangai Employer Member

Appearances: Selson Fafale, of Commissioner of Labour Office
representing the Complainant.

Respondent barred.

The Complainant in this matter worked as fireman for the Respondent Company, a bakery, from 2007 until his termination in September 2011.

The proceedings in this matter proceeded uncontested since the Respondent was barred from taking part in the proceedings after it failed to file its TDP 2 Form, nor make an application to abridge time. The Respondent was also not present either by a representative or legal counsel during the first prehearing and two further prehearings.

At the full hearing, only the Complainant gave evidence. In his sworn evidence, he told the Panel that he was not given any letter of termination. He was only verbally advised by the Company owner, Peter Eke, that his employment with the Company had been terminated. Upon receiving notice that he was terminated, he picked up his bag and left. He then returned on three different occasions to the Respondent's premises opposite the School of Marine at Ranadi to find out the reason for his dismissal, but could not find Peter Eke. During those times, he only spoke with one of the Supervisors. After those failed attempts to speak with Peter Eke, the Complainant sought assistance from the Solomon Islands National Union of Workers (SINUW), which advised him to seek further assistance from the office of the Commissioner of Labour. He then spoke with a Labour Officer, Brown Pweu, who wrote a letter to the Respondent Company seeking clarification on what grounds the Complainant was terminated. There was however no response, so he filed his complaint with the Trade Disputes Panel. The respondent further told the Panel that he was terminated without any pay.

It was rather unfortunate that the Respondent was not able to make a response and contest the claims by the Complainant. However, reasonable time was given for the Respondent to make an appearance but it had failed to do so. In the circumstances, the Respondent had not done so at its cost.

The Panel finds on the balance of probabilities that the Complainant was dismissed without being informed about the reason for his dismissal. This, in our view, is enough to render the Complainant's termination unfair. The Panel therefore finds that the Complainants termination was unfair.

In awarding compensation, the Panel takes into consideration the period of employment and the Respondent's conduct. In all the circumstances, the Panel makes a fair a reasonable compensation.

Award

1. Basic Award	=	\$6,000.00
2. One month payment in lieu of notice	=	<u>\$ 800.00</u>
	Total	\$6,800.00

The respondent unfairly dismissed the complainant, and is to pay \$6, 800-00 to Watson Mamama being payable immediately and is recoverable as a debt under section 10 of the Unfair Dismissal Act 1982.

Appeal

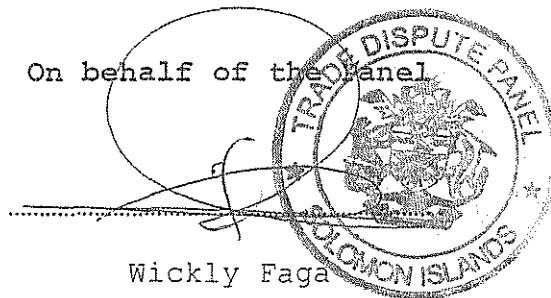
There is a right of appeal to the High Court within 14 days on points of law only, and any party aggrieved by the amount of compensation awarded may within one month of the date of the award appeal to the High Court as provided for under the Unfair Dismissal Act 1982, S. 7 (3).

Panel Expenses

The Panel fixes a contribution of \$500-00 to cover Panel expenses, and this amount is to be paid by the respondent within 14 days from the date of this decision.

Dated the 10th of December 2012

On behalf of the Panel



Wickly Faga

DEPUTY CHAIRMAN/TDP