

IN THE SUPREME COURT OF
THE REPUBLIC OF VANUATU
(Civil Jurisdiction)

Civil Case No. 52 of 2015

BETWEEN: LATE RITA BILL NAVITI
Claimant

AND: JUDICIAL SERVICE COMMISSION
First Defendant

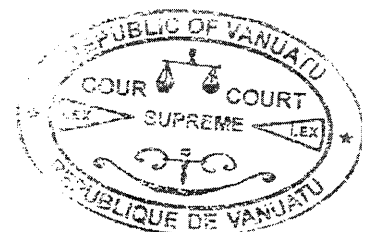
AND: CHIEF REGISTRAR OF THE SUPREME COURT
Second Defendant

AND: GOVERNMENT OF THE REPUBLIC OF
VANUATU
Third Defendant

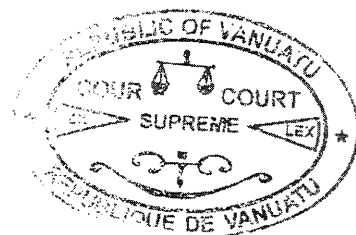
Hearing: Monday October 17th 2016 at 9 am
Before: Justice JP Geoghegan
Appearance: No appearance for the Claimant (Lent Tevi)
Lennon Huri (SLO) for the Defendants

JUDGMENT

1. These proceedings involve a claim by the Estate of the late Rita Bill Naviti for a payment of severance pay arising from her retirement as a Senior Magistrate on June 6th 2014. The claim seeks an award of Vt 7, 164, 160 which the claimant maintains should be paid in addition to the severance payment paid to her upon her retirement.
2. This claim is being conducted by the administrators of the late Senior Magistrate's estate as the original claimant died on June 2015 shortly after her claim was filed.
3. On June 10th a conference was held regarding this matter where I made various observations regarding the statement of claim and what I considered to be the necessity for filing an amended statement of claim. I referred to the fact that the case would be determined within a narrow compass and that accordingly the matter could be set down for hearing.

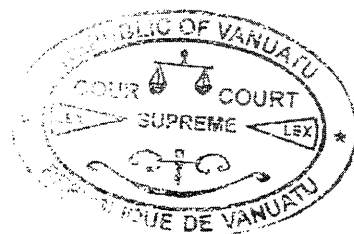


4. I made various timetabling orders including an order that an amended statement of claim was to be filed and served no later than 4 pm Friday July 1st. I adjourned the proceedings to a one day hearing commencing at 9 am today and directed a pre-trial conference at 9 am on Friday October 7th.
5. No amended statement of claim has been filed on behalf of the claimant.
6. There was no appearance by or for the claimant at the conference on October 7th. Mr Huri appeared for the defendants. The day prior to the conference Mr Tevi simply filed a memorandum which recorded the following:-
 - “1) On 30 September 2016 we had wrote (sic) to the Chief Registrar informing him that today 6 October 2016 we will be travelling to Noumea, New Caledonia.
 - 2) In regards to the amended claim we had failed to file the amended claim as we had tried our best to obtain a Public Service Staff Manual until today to reconsider our position however cannot obtain one.
 - 3) We request this matter be adjourned to a further date.”
7. Given the late filing of the memorandum, the pre-trial conference on October 7th proceeded as I was not prepared to adjourn the hearing. I assume that Mr Tevi must have known about his travel arrangements to Noumea for some time prior to October 6th and could and should have taken earlier steps to apply for an adjournment. In any event, the date for the substantive hearing was confirmed.
8. Nothing further was heard from Mr Tevi in respect of the matter. This morning when the matter was called at 9 am Mr Tevi was not present. I stood the matter down. My registrar telephoned Mr Tevi to ascertain why he was not here. She was advised by Mr Tevi that he was in Santo and I understand that that is where his office is. He advised that he would arrange for someone to come to the Court for the purposes of applying for an adjournment. At 9:30 am no one had appeared in Court on Mr Tevi's behalf. As




this judgment is delivered it is now 9:45 am and there has still been no appearance by anyone on behalf of Mr Tevi to seek an adjournment. Mr Huri for the State does not oppose an adjournment. I am not however prepared to grant one. This hearing was set down four months ago. Mr Tevi has had more than sufficient time to file an amended statement of claim and has failed to do so and has failed to provide any reason why he has failed to do so. It may well be because he considered the original statement of claim as being adequate and he is of course entitled to do so. The reality is that I do not know because neither Mr Tevi nor anyone on his behalf has appeared.

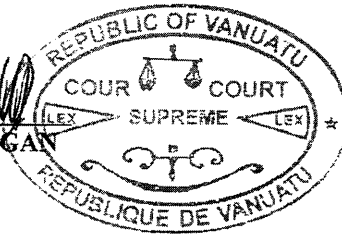
9. I do not consider that Mr Tevi's memorandum which appears to be dated September 6th which was filed on October 6th could be construed as an application for an adjournment of the substantive hearing. In any event even if it were, it contains only a reference to Mr Tevi for some reason unknown to me, being unable to obtain a Public Service Staff Manual to enable him to reconsider the claimant's position. Frankly I would have thought that access to a Public Service Staff Manual might have been undertaken before the claim was filed.
10. Regrettably it must be said that the non-appearance by counsel at Judicial Conferences and what seems to sometimes be a cavalier approach by counsel to attending the Court for hearings is far too prevalent. Some counsel appear of the view that the Court will simply indulge a request for an adjournment regardless of the background circumstances. I consider that there is no good reason to grant an adjournment in this case. Mr Tevi has had more than enough time to prepare this case and has failed to do so. In the circumstances there has been a concerning failure on the part of Mr Tevi to prosecute this claim and I consider that adjourning the proceedings would be inappropriate.
11. For these reasons the claim is dismissed accordingly.
12. The State is entitled to costs and in the event of costs not being agreed within 21 days costs are to be taxed.



Dated at Port Vila, this 17th day of October, 2016

BY THE COURT


JP GEOGHEGAN
Judge



The seal of the Supreme Court of Vanuatu is circular. The outer ring contains the text "REPUBLIC OF VANUATU" at the top and "REPUBLIQUE DE VANUATU" at the bottom. Inside the ring, the words "COUR" and "COURT" are positioned on either side of a central scale of justice. Below the scale, the word "SUPREME" is written. On the left and right sides of "SUPREME", the word "LEX" is written in smaller letters. A small star is located on the right side of the seal.