

TRADE DISPUTES PANEL, SOLOMON ISLANDS

Under the Unfair Dismissal Act 1982

UD/227 & 229/88

Between: BEN SADE and JOSEPH WALE Applicants  
and: NATIONAL FISHERIES DEVELOPMENT LTD Respondent

Hearing at Honiara on 24 July 1990.

H Macleman Chairman

G Kuper Member

H Creighton Member

For the applicants: C Waiwori and G Suri, S I National Union of Workers.

No appearance for the respondent.

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F I N D I N G S

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On 22 September 1988 the applicants lodged complaint that National Fisheries Development Limited had unfairly dismissed them on 20 August 1988. On 19 October 1988 the respondent company ("N.F.D.") lodged notice of appearance in each case, admitting that both applicants were dismissed but specifying various acts of misconduct justifying that.

National Fisheries Development was notified by letter of both preliminary and full hearings but was not represented and did not communicate in any way with the Panel. The dismissals being admitted, it was for the company to show the reasons for them.

At the consolidated hearing, Ben Sade gave evidence that on 10 August 1988 he had been serving on the vessel Solomon Premier on a voyage from Tulagi to Honiara. The captain was drinking from early morning and became so drunk that he was falling over. The second engineer asked Sade to help carry the captain to his cabin, which he did. He, Joseph Wale, and other members of the crew then went ashore, as the captain had earlier given them permission to do. Sade denied the allegations against him made by National Fisheries

Development on Form TDP2, in particular the suggestion that he had ever struck the captain. On 11 August he had been told he was suspended from duty and on 20 August he was told he was sacked.

Joseph Wale and Acts Kaiasi gave evidence to similar effect.

The Panel accepts the evidence of the applicants and their witness and finds that unfair dismissal has been proved and would be reasonably compensated for by payment of the equivalent of a redundancy payment, three months wages, and suitable interest.

Ben Sade - 9.5.88 to 20.8.88 = 15 weeks	
$15 \times \frac{1}{26} \times 75 =$	\$ 43.27
3 months gross salary (3 x 300)	900.00
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	943.27
Interest thereon from 20.8.88 to 31.7.90 i.e. $\frac{710}{365}$ at 15% p.a.	275.23
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	1218.50
	=====
Joseph Wale - 4.2.88 to 20.8.88 = 28 weeks	
$28 \times \frac{1}{26} \times 75 =$	\$ 80.77
3 months gross salary (3 x 300)	900.00
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	980.77
Interest thereon 20.8.88 to 31.7.90 i.e. $\frac{710}{365}$ at 15% p.a.	286.17
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	1266.94
	=====

AWARD

The respondent unfairly dismissed both applicants and is to pay compensation (payable immediately and recoverable as a debt under s. 10 of the Unfair Dismissal Act 1982) to Ben Sade of \$943.27 and to Joseph Wale of \$980.77, in

each case with interest at 15% p.a. from 20 August 1988 until payment.

EXPENSES

The Panel fixes a contribution of \$150 towards its expenses to be paid 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.30 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. 8(3).

On behalf of the Panel



(Hugh Macleman)

CHAIRMAN, TRADE DISPUTES PANEL