

TRADE DISPUTES PANEL, SOLOMON ISLANDS  
Under the Unfair Dismissal Act 1982

UD/60/89

Between:

STEVEN RAMOGA

Applicant

and:

MELANESIAN TRADERS LIMITED

Respondent

Hearing at Honiara on 18 October 1990.

H Macleman Chairman

O Pokana Member

H Creighton Member

For the applicant: G Suri, Legal Officer, Solomon Islands 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 2 May 1989 Steven Ramoga lodged complaint with the Panel that Melanesian Traders Limited unfairly dismissed him on 27 April 1989. The company lodged a notice of appearance in which it admitted the dismissal, and thus assumed the burden in terms of sections 4 and 6(6) of the Unfair Dismissal Act 1982 of establishing both a substantial reason such as to justify the dismissal and that it acted reasonably in treating the reason as sufficient.

In Form TDP2 and an attached copy letter to the Union the company referred to the employment as a "trial period" and to the dismissal as "the exercise of an employers prerogative", and stated, "no contracts (whatever these are) are applicable in the circumstances". Thus the company management does not seem to be aware that any relationship of employment, however informal, constitutes a contract, and that the Employment Act 1981 obliges it to provide all employees with written particulars of their terms of employment, failure to comply being a criminal offence. There were some minor points of criticism of the applicant's work performance but as the company chose not to be represented at the hearing we have no evidence to support these. The company states it had no warning procedure and there is no suggestion of any enquiry being carried out or Mr Ramoga being given a chance to improve or to explain himself. The company, in short, has not begun to satisfy either part of section 4 and it follows that the

dismissal must be held to have been unfair.

The applicant obtained a higher - paid job in February 1990. In all the circumstances, we assess compensation at the equivalent of the redundancy payment to which Ramoga would have been entitled, one month's additional pay, and interest to date.

Applying the formula under s. 7 of the Employment Act 1981:-

April 1988 - 27 April 1989: 52 weeks	
$52 \times \frac{1}{26} \times (180 \times 12 + 52) =$	\$ 83.08
One month's basic pay	180.00
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	\$ 263.08
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#### AWARD

The respondent unfairly dismissed the applicant and is to pay him compensation of \$263.08 plus interest at 15% per annum from 27 April 1989 until payment (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 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. 7(3).

Issued on 24 October 1990, by post, as agreed by the parties.

On behalf of the Panel.

*Hugh Macleman*

(Hugh Macleman)

CHAIRMAN/TRADE DISPUTES PANEL