

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

UD/99/89

Between:

BEN LILIA

Applicant

and:

SOLOMON TAIYO LIMITED

Respondent

Hearing at Honiara on 25 October 1990.

H Macleman

F Mahlon

J Adifaka

For the applicant: C Waiwori and G Suri, Solomon Islands National Union of Workers.

For the respondent: Leni, Personnel Officer.

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F I N D I N G S

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Solomon Taiyo Limited employed Mr Ben Lilia from 2 March 1987 until 29 August 1989. The company admitted dismissing him and so under sections 4 and 6(6) of the Unfair Dismissal Act 1982 had to show both a substantial reason for dismissal and that it acted reasonably in coming to its decision. However, the company did not lead any evidence, although it was alleged that the applicant was sacked for leaving his place of employment in the cooking section of the cannery and joining one of the company's catcher boats as a crewman. This was said to be contrary to the company procedure for processing such an application through a "transfer card".

The applicant told us that he had heard after work one day of a vacancy on a catcher boat and had gone to see his foreman at home and obtained his permission to join the crew right away. The foreman was to attend to the formalities. He went aboard with the approval of the Captain and the fishing master of the vessel.

On the evidence available to us, the applicant simply changed his position within the company with the full approval of his superiors in both departments concerned, and we do not see how that can lead to any criticism at all of his conduct, let alone justify his dismissal.

We assess compensation at the equivalent of the redundancy payment to which he would have been entitled, three months basic wages at \$162, and interest to date. Applying the formula under s. 7 of the Employment Act 1987:-

$$\begin{array}{r r r r r}
 2.3.87 & - & 29.8.89 & = & 130 \text{ weeks} \\
 130 & \times & \frac{1}{26} & \times & (162 \times 12 + 52) = \\
 3 & \times & 162 & & \\
 & & & & = \\
 & & & & \$186.92 \\
 & & & & 486.00 \\
 & & & & \hline
 & & & & \$672.92 \\
 & & & & \hline
 & & & & =====
 \end{array}$$

#### AWARD

The respondent unfairly dismissed the applicant and is to pay him compensation of \$672.92 plus interest at 15% per annum from 29 August 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 within one month of the date of the award appeal to the High Court: Unfair Dismissal Act 1982, s. 7(3).

Issued to parties on 29 October 1990.

On behalf of the Panel.

*Hugh Macleman*

(Hugh Macleman)

CHAIRMAN/TRADE DISPUTES PANEL