

failure to complete his allocated task in North Malaita (2) his infringement of the Authority's rules in respect of leaving the workplace without permission, and absence from work, and (3) his late return (by one day) in response to a service message calling him back to Honiara. The applicant's side was that he had arranged with the Authority, through a radio call, for materials to complete the job to be sent to the village of Sulufou, where he heard nothing further until summonsed back to Honiara.

The respondent led evidence from its former Construction Manager, Mr Allen Munimae, who received the critical radio call from the applicant at Sulufou. The witness said that he agreed to send the materials to Sulufou. The evidence for this applicant's case is thus stronger than it was for Alegata and in the circumstances we can see nothing to criticise in his waiting at Sulufou for the materials to arrive. There was an elementary failure on the part of management to tell Jack at his known point of contact that the materials were on site and work could recommence. The Authority has thus established neither a substantial reason for dismissal nor, in view of its failure to make proper enquiries before the decision to dismiss, that it acted reasonably in coming to that decision.

Again as for the other applicant, Jack's conduct was scarcely above criticism. We did not believe his story of sending Alegata back to Honiara to fetch the materials, because Alegata did not tell us anything of the sort. The obvious step would have been to make another radio call and, when money could be found for fares, we do not accept that as beyond his means. Taking account of his lax attitude, we assess compensation on the same basis as for Alegata, i.e. the equivalent of a redundancy payment, one month's basic wage, and interest to date.

Applying the formula under s. 7 of the Employment Act 1982:-

25.5.87	-	23.8.88	=	64 weeks
64	x	$\frac{1}{26}$	x	73.60
One month			=	147.20
				\$328.37
				=====

AWARD

The respondent unfairly dismissed the applicant and is to pay him compensation of \$328.37 plus interest at 15% per annum from 23 August 1988 until payment (all 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 to the High Court: Unfair Dismissal Act 1982, s. 7(3).

Issued to parties on 30 November 1990.

On behalf of the Panel



(Hugh Macleman)

CHAIRMAN/TRADE DISPUTES PANEL