

TRADE DISPUTES PANEL, SOLOMON ISLANDS

Under the Unfair Dismissal Act 1982

UD/86/90

Between: JOHN TANISAPA Applicant  
and: SOLOMON TAIYO LIMITED Respondent

Hearing at Honiara on 29 November 1990 before:

H Macleman Chairman  
F Mahlon Member  
J Adifaka Member

For the applicant: A Radclyffe, Public Solicitor's Office.

For the respondent: P Belade, Personnel Manager.

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FINDINGS

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Mr John Tanisapa began work for Solomon Taiyo Limited as an apprentice engineer on 2 January 1985 and latterly became a member of staff earning a basic \$380 per month. There was no significant dispute over the facts and circumstances of his dismissal. On the evening of 9 February 1990 he had been drinking and became angry about overcrowding in his quarters and the refusal of one of his colleagues to allow sharing of his room. He kicked walls and a door, causing damage to a total of \$396.95. Shortly afterwards, he was called to head office and, as a result of the incident, transferred from Noro Base to a position on one of the company's vessels.

Some weeks later the manager of Noro Base saw him on the vessel and still in the company's employment, after which he was re-summonsed to head office and sacked.

In cross-examination the applicant admitted he had damaged company housing once before, in 1988.

The Panel's view was that the company could quite justifiably have sacked the applicant for his actions. Having once decided to deal with the case by an internal transfer, however, it was manifestly unreasonable to dismiss him several weeks later. The company has satisfied the test imposed <sup>by</sup> s. 4(1)(a) of the Act, but not that under s. 4(1)(b).

The applicant recently found new employment with Marine Division. Taking account of length of service, the applicant's own contribution to his dismissal, and the damage caused, we assess compensation at the equivalent of the redundancy payment to which he would have been entitled, two months' further basic wages, and interest to date.

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

$$\begin{array}{rcl}
 2.1.85 - 31.3.90 & = & 273 \text{ weeks} \\
 273 \times \frac{1}{26} \times (380 \times 12 + 52) & = & \$ 920.77 \\
 2 \times 380 & = & 760.00 \\
 & & \underline{\hspace{1.5cm}} \\
 & & \$1680.77 \\
 & & \text{=====}
 \end{array}$$

#### AWARD

The respondent unfairly dismissed the applicant and is to pay him compensation of \$1,680.77 plus interest at 15% per annum from 31 March 1990 until payment (all payable immediately and recoverable as a debt under s. 10 of the Unfair Dismissal Act 1982).

#### EXPENSES

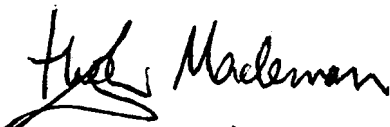
The Panel fixes a contribution of \$200 towards its expenses to be paid by the respondent to the Ministry of Commerce and Primary Industries within 14 days of this date.

#### 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