

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

UD/13/89

Between:

CASPER TONAFALEA

Applicant

and:

ATTORNEY GENERAL

Respondent

Hearing at Honiara on 4 October 1990.

H Macleman Chairman

F Mahlon Member

F Koraimae Member

For the applicant: C Waiwori, Assistant General Secretary, Solomon Islands
National Union of Workers.

For the respondent: P Afeau, Attorney General's Chambers.

F I N D I N G S

Solomon Islands Government employed Mr Casper Tonafalea as a driver at the Ministry of Agriculture and Lands Research Station, Dodo Creek, from 22 May 1985. To justify his dismissal, Mr Afeau, on behalf of the Attorney General, produced the following correspondence:-

1. Letter to applicant from Chief Research Officer dated 2.11.87 requesting him to explain his failure to return from his annual leave, from which he had been due back on 12.10.87.
2. Letter to applicant from Permanent Secretary, Ministry of Agriculture and Lands dated 31.12.87 requesting him to explain his having overstayed his leave from 12.10.87 - 11.11.87.
3. "Final warning" to applicant from Chief Research Officer dated 7.4.88 in respect of unauthorised and unexplained absences on 5 and 7.4.88.
4. "Last warning" to applicant from Station Manager in respect of unexplained absences on 25 days since January 1988.
5. Memos dated 16 and 20.12.88 re absences on 1, 5, 8, 12 and 13.12.88, leading to dismissal letter dated 22.12.88.

The respondent also led evidence from Mr Charles Taigwata, Chief Administrative

Officer. The Chief Research Officer was an expatriate who has left Solomon Islands and others involved directly in the case ^{are} no longer with the Ministry. Mr Taigwata could only confirm that his office had acted on the foregoing written record of absences.

The applicants evidence, although slightly confused and contradictory, was essentially this: he had overstayed his leave by one week only, as one of his children was sick; he might have been off work one or two other days in 1988, but could not be sure; and he had not been absent at all between the date of the last warning letter and his dismissal.

We are satisfied on the records produced that Tonafalea was sacked for persistent and inexcusable absences, and that he had been given ample warnings and opportunities to improve. We did not believe his story. The respondent has established that the dismissal met the tests in section 4 of the Unfair Dismissal Act 1982.

We dismiss the complaint and make no order for costs. There is a right of appeal to the High Court within 14 days on a question of law only.

Issued to parties on 8 October 1990.

On behalf of the Panel



(Hugh Macleman)

CHAIRMAN/TRADE DISPUTES PANEL