

TRADE DISPUTES PANEL, SOLOMON ISLANDS

Under the Unfair Dismissal Act 1982

UD/103/89

Between: MARY TANGA Applicant
and: D.J. GRAPHICS Respondent

Hearing at Honiara on 7 November 1990 before:

H Macleman Chairman
F Mahlon Member
F Koraimae Member

For the applicant: G Suri, Legal Officer, Solomon Islands National
Union of Workers.

For the respondent: D Chow, Proprieter.

F I N D I N G S

D.J. Graphics employed Mary Tanga (or Tekai) as a shop assistant from July 1987. She went on three weeks' leave from 10 June 1989, and travelled to Bellona (her boy friend's island) by ship, although she knew very well that her leave was for three weeks only and a return passage would not be available for at least a month. Her employers' evidence was that she had told them she would spend her leave in Kiribati; although, when questioned on the point, she said that she told the manager immediately prior to her departure where she was going, we preferred the employers' evidence.

Mary claimed the ship for her return failed to arrive. She eventually returned by plane, reported three weeks late, and was told her position was no longer available to her.

The members of the Panel shared the impression that the applicant had an entirely cavalier attitude to the date of her return from leave, expecting to be able to resume her employment more or less when she chose.

The question whether over-staying leave, a all too common problem for Solomon Islands employers, is sufficient justification for dismissal, depends on the circumstances of each particular case, e.g. the length of service of the employee,

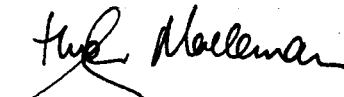
position held, period of and reasons for the delay, requirements of the employer, etc. It may often be the case, as here, that non-attendance at work poses greater problems for and justifies more serious treatment by a small employer than a large one. It should also be made clear to those advising applicants that it is employees' duty to return to work when due, and there is no responsibility on employers to send service messages requesting their return, or funds for their passages.

In this case the delay represented a substantial reason for dismissal, and the respondent was entitled to proceed as it did. The complaint is dismissed.

There is a right of appeal, on a question of law only, within 14 days.

The decision is issued in writing, as agreed by parties at the hearing, on 13 November 1990.

On behalf of the Panel



(Hugh Macleman)

CHAIRMAN/TRADE DISPUTES PANEL