

IN THE TRADE DISPUTES PANEL )  
OF SOLOMON ISLANDS )

Case No. UD 21 of 1996

IN THE MATTER of the  
Unfair Dismissal Act 1982

AND IN THE MATTER of a complaint  
of unfair dismissal.

BETWEEN: WILLIAM GEORGE

Applicant

AND: GOLDEN SPRINGS  
INTERNATIONAL(SI) LTD

Respondent

Hearing: 3rd June 1997, Munda.

Decision: 3rd June 1997

Panel: A.N.Tongarutu-Chairman

D.Bale -Employee Member

W.Paia -Employer Member

Appearances: D. Hou, Public Solicitor's Office for Applicant

No appearance by Respondent

---

## DECISION

By an application filed on 11th June 1996 the applicant claimed that he was unfairly dismissed from his employment at Gerasi Camp in March 1996 and appealed against his dismissal on the grounds that he denied the allegation by his employer that he damaged the chainsaw.

In its notice of appearance the respondent admitted having dismissed the applicant for damaging company property but resisted his claim of unfair dismissal with a counter claim that the applicant was fairly dismissed for the alleged damage of the chainsaw allocated to him which was destroyed by a caterpillar in the process of skidding logs on 26th March 1996.

Notice of today's hearing was sent to the parties on 12 May 1997. Solicitor for the respondent wrote on 26 May 1997 requesting an adjournment of the hearing for the reason that he would be in Gizo. Due to short notification the Panel did not accept the request for adjournment.

The applicant was engaged as a chainsaw crew by the respondent since 1995. The tasks involved refilling of petrol, clearing the bush around the trees and the road. In his evidence under oath, the applicant claimed that he was advised about the termination during his absence on annual leave but denied damaging the chainsaw. On 22nd March 1996 he was granted one(1) day unpaid leave by the personnel officer to attend a cousin's marriage. Immediately thereafter he fell ill and upon his request the paymaster allowed him to take his annual leave. He was paid his holiday pay. He was aware of the circular mentioned in the termination letter but claimed that he was not a chainsaw operator. The closest job he

did to being a chainsaw operator was to do cross cutting on logs. He also claimed not to have received any written warnings during his term of employment and was neither engaged under a contract of employment. The applicant did not seek alternative employment. Upon termination he was not paid any terminal payment.

In the Panel's assessment, the applicant was unfairly dismissed chiefly for the reason that he was dismissed during his absentism on annual leave and was not given an opportunity to answer to the allegation. He was denied the opportunity to be heard. Under the circumstances section 4(1)(b) of the Unfair Dismissal Act 1982 the rules of natural justice were overlooked by the respondent. Secondly, the respondent had failed to comply with section 18 of the Employment Act 1981 by engaging the applicant without any written terms and conditions of employment. In fairness to the applicant he must be compensated for being unfairly dismissed. Under the circumstances the Panel assesses a fair & reasonable compensation as follows:-

i) Wages in lieu of notice (1 month)	\$ 182.00
ii) Loss of employment (2 months)	\$ 728.00
iii) Travelling expenses	\$ 172.00
iv) Breach of S.18 employment Act	\$ 364.00
	<hr/>
	\$1446.00
	<hr/>

#### Award

The respondent unfairly dismissed the applicant and is to pay compensation to William George in the sum of one thousand four hundred & forty six dollars (\$1446.00) being payable immediately & is recoverable as a debt under S.10 of the Unfair Dismissal Act.

#### Appeal

The appeal provisions under the Unfair Dismissal Act 1982, Trade Disputes Act 1981, Trade Disputes Panel Rules 1981 and the High Court (Civil Procedure) Rules 1964 apply to this decision.

#### Panel Expenses

Pursuant to section 12(3) of the Unfair Dismissal Act 1982 the Respondent is to pay Panel expenses in the sum of one hundred and fifty dollars (\$150-00) within 14 days of receipt of this Decision.

On behalf of the Panel,

A. N. Tongarutu  
**CHAIRMAN/TRADE DISPUTES PANEL**