

IN THE TRADE DISPUTES PANEL)
OF SOLOMON ISLANDS)

Case No: L9/2 of 1998

IN THE MATTER of the Trade Disputes Act 1981

AND IN THE MATTER of a trade dispute referral

BETWEEN: SOLOMON ISLANDS NATIONAL UNION OF WORKERS
(Applicant/Employer)

AND: HOT BREAD KITCHEN.
(Respondent/Union)

Hearing: 25th April 1998.

Coram: A. N. Tongarutu - Chairman
W. Paia - Employer Member
D. Bale - Employee Member

Appearance: George Kame, Industrial Officer, for the Applicant.
Belany Tekelu, ECA for the Respondent.

PRELIMINARY FINDINGS

On the 2nd of March 1998, the Applicant (hereinafter referred to as the Union) gave notice of a trade dispute to the Panel Secretary between itself as claiming representation of workers of the respondent (hereinafter referred to as the Employer).

The dispute centred on the issue of **Recognition** and the Union requested the application of section 10 of the Trade Disputes Act to become to be applicable to the referral. The Union's case was that on the 12th of February 1998 it wrote to the employer seeking to be recognised as the Union representing its employees. However no respond was forth coming from the employer. It was submitted that the reason for seeking recognition was because the union claimed it had secured a substantial number of the work force as its financial members. On the 28th of February the Union claimed that it had secured 23 employees as its members and the remaining 47 later paid up their membership. However, whilst the was pursuing a recognition claim. The employer forced its employees to sign a contract of employment and thus resulting in the referral.

A list of the employees whom the union claims to be its members was submitted forth to the panel.

Pursuant to the employers attitude in forcing the employees to sign a contract of employment Mr. Kame on behalf of the Union made an application to the panel under section 5(2) of the Trade Disputes Act to conduct a secret ballot to determine membership. Representative of the respondent however submitted that the union had been advised that its applications seeking recognition would be dealt with by the Board of Directors whilst this was in the process of being dealt with the union rushed the matter to the Trade Disputes Panel. It was submitted that the management was not aware of the financial membership of its workers with the union considering that an Employment of Agreement had already existed. In support of this submission a letter dated the forth of March 1998 to Mr. Kame on behalf of the General Manager of the Respondent showed that the Union was advised of the company's actions and that it request the union to send them a copy of the union recognition draft. On the 24th of March another letter was sent to the union notifying it that the Board of Directors did not agreed to recognition. Mr. Kame submitted that the document requested by the employer was submitted to them on the 19th of March 1998 prior to the response from the Employer on the 24th of March 1998.

The of the respondent's submission was that the majority of the work force had opted to be employed under good terms and condition and were under the impression that they would lose this it they become members of the union. Documents entitled 'Services Agreement for Employees' and signed on the 17th of March 1998 and 26th of February 1998 were submitted on behalf of the Employer which showed that a majority of the Work force had opted to be engaged on separate contracts of employment.

This should for the Panel then was to determine whether a secret ballot will better assist the Panel to determine the wish of the Employees. Service Agreement signed between the 26th of February 1998 to the 24th of March 1998 showed that the applicant union did not command a majority of the work force which it had claimed. The standard service agreement it is interesting to note that under

paragraph 7 of the Service Agreement its stipulates and I quote; **"An employee who has entered the service of the company under this agreement shall not be a member of the Solomon Islands Union of Workers"**. This categorically states that this employees have decided to signed up individual contract. Mr. Kame submit that the employees were forced to signed the contract documents and that he had received complaints from them about this. The Panel however, finds that the employees of the respondent are adults and they should be in a position to decide whether they will concede to being forced to sign the Service Contract or not and it was ridiculous to hear that it is after the signing of the contract of employment that the employees complained to the Union. Why did they not complained to the union prior to signing of the Employment Contract. It was submitted for the respondent that 52 of the employees whom the union claimed to have paid their financial membership have since signing the Service Agreement, withdrawn their membership. It is the Panel's findings that by paragraph 7 of the Service Agreement amongst to an osteoclast in which a majority of the work force had opted not to be members of SINUW and for that on the basis of its findings, the Panel therefore refuses to grant Mr. Kame's application for the Panel to conduct a Secret Ballot. The Notice of Referral dated 2nd March 1998 on the issue of recognition is therefore dismissed by the Panel. There is no award on this case. Costs of these proceedings in the course.

On behalf of the Panel

A. N. Tongarutu

CHAIRMAN/TRADE DISPUTES PANEL