

**IN THE TRADE DISPUTES PANEL  
SOLOMON ISLANDS**

**Case No. UDF 4/005**

**BETWEEN: JAMES OLOMANI**

**(COMPLAINANT)**

**AND: ABA CORPORATION**

**(RESPONDENT)**

**FINDING**

By complaint (TDP1) lodged to the Panel on 9/3/05, the complainant claimed that he was unfairly dismissed by the respondent on 18/12/04.

In its notice of appearance (TDP2), however, the respondent resisted the claim by stating the reason for the complainant's dismissal was for stealing.

The complainant was employed by the respondent as a shop assistant for a period of five years. He joined the company in 1999.

On the day of his termination (18/12/04), the complainant was amongst other boys delivering cargoes to shops at Point Cruz including Point Cruz Shopping shop. They returned to their work place (Abba shop) in the afternoon.

Whilst the boys (including the complainant) were still out delivering cargoes at Point Cruz, the owner of the Point Cruz Shopping shop rang Anthony Wong (RW1) the Director of Abba Corporation (the respondent) to complain to him about the attitude of his boys whilst delivering cargoes at his shop. He told Mr. Wong that his boys stole three basins from his shop but they managed to take them back before they left the shop. Mr. Wong then advised the caller to immediately lodge a formal complaint, in which, he did (see exhibit 1).

As soon as the boys returned to the shop in the afternoon, Mr. Wong called them, one by one, to ask them about the incident regarding the phone call he received from the Point Cruz Shopping Shop. The boys were, Walter Waro, Fred Popoe and James Olomonani (the complainant).

When asked, Walter Waro (RW1) said he saw the complainant taking the basins into the truck. He put them in the cabin. When Mr. Wong asked James Olomani (the complainant), he said he was only joking, he did not intend to steal. When asked, Fred Popoe put the blame on the complainant, James Olomani. In the interview, Mr. Wong said the two boys, the complainant and Fred Popoe seemed to be blaming each other. As a result, he decided to terminate them both.

In his sworn evidence, Mr. Walter Waro (RW2) told the Panel that whilst delivering cargoes at Point Cruz Shopping shop he was standing beside the vehicle outside whilst the complainant and Fred Popoe were delivering the cargoes into the shop. As Fred brought the basins into the vehicle, he asked Fred whose basins they were. Fred replied he bought them. As Walter reversed the vehicle to pick up the complainant who was still in the shop, a security officer from the shop came banging the passenger side of the vehicle so Walter had to stop. The security officer took the basins from where they were placed in the cabin and returned them to the shop. Walter then asked Fred why the basins had to be taken to the vehicle and Fred said it was according to the complainant's advice. Both Fred and Walter then followed into the shop where Fred and the complainant started blaming each other.

In his sworn evidence, Reuben Liga (RW3) an employee of the respondent company told the Panel that he was present when Mr. Wong interviewed the boys. He stated that the boys were first interviewed one by one and then collectively. In an interview with the complainant, he admitted having told Fred to take the basins into the truck but said he was only joking when he said that.

In his sworn evidence, however, the complainant denied having advised Fred Popoe to take the basins into the truck, even as a joke. He said he had no right to advise Fred to take the basins to the vehicle.

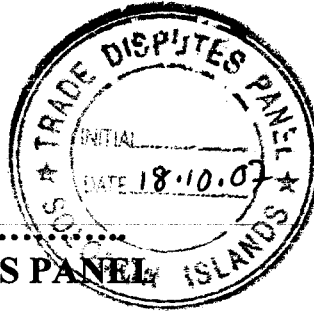
Considering evidence before the Panel, the Panel accepts that of the respondent witnesses. The complainant was obviously not telling the truth. The Panel accepts that both the complainant and Fred at the material time intended to steal by removing the basins into the truck. Clearly it was not a joke. They did not have reason to do that. Fortunately or unfortunately for

them the security officers saw what they were doing and were able to take back the basins before they drove away.

The respondent's action was reasonable in the way it interviewed the boys including the complainant. Because the action taken by the complainant and Fred amounts to theft, as the Panel accepts, the respondent is entitled to terminate them on the spot.

Having said that, and in all the circumstances, the Panel finds that the complainant was not unfairly dismissed.

The complaint is dismissed.



CHAIRMAN/TRADE DISPUTES PANEL