**IN THE TRADE DISPUTES PANEL**
**SOLOMON ISLANDS** **Case No. L9/8/07**

**BETWEEN:** **S. I. National Union of Workers** **(Applicant).**

**AND:** **Kolobangara Forest Products Ltd** **(Respondent).**

**Panel:**
1. **Francis Cecil Luza** - **Chairman**
2. **David Iro** - **Employer Representative**
3. **Edith Fanega** - **Employee Representative**

**Appearances:** **Tony Kagovai, General Secretary, for the Applicant.**

**Tim Bula, Human Resources Manager, for the Respondent.**

**Date of hearing: 14th February 2008.**

**Date Award delivered: 15th April 2008.**

## AWARD

By a letter dated 9th July 2007, Barry L. Samson of the Solomon Islands National Union of Workers (the Union) referred a trade dispute to the Trade Disputes Panel in accordance with the provisions of the **Trade Disputes Act, Cap 75.**

The dispute arose as a result of the review of the 2004 Collective Agreement in 2006/2007. The parties were not able to compromise on the following clauses of the Agreement: **Clause 5.2; Clause 16; Clause 18 and Appendix III (Wages).** Furthermore, the parties also could not compromise on the new clauses (**Clauses 22 and 23**) that were initiated by the respondent. In considering the award in this matter we will consider the clauses one by one. We will first deal with clauses 22 and 23.

### Clauses 22 and 23

These are actually new clauses that the respondent initially would like to insert in the Collecting Agreement. In the course of the hearing, however,

the respondent decided to withdraw its intention to do that and the issues were therefore treated as settled.

**Clause 5.2**

Clause 5.2 of the existing Collective Agreement provides as follows:

> "The employer will pay annually the cost of return fares for the employees, his/her spouse, and up to a maximum of 4 children under 18 years, from Ringgi Cove to his/her home village. The "home village" will be taken to be that place agreed with the employee at the time of recruitment and in accordance with the legal definition of "home village".
>
> Subject to approval, KFPL will provide tickets/vouchers/LPO for scheduled transport services or a cash equivalent of the return passage for eligible members of the employee's family from his/her place of employment to his designated home village. Leave travel will be paid only in respect of absence from Ringgi Cove or Poitete of more than two weeks. The Employer shall determine a fair value for the cost of the passenger for his/her place of employment to his/her home village. The leave fare allowance will be paid immediately prior to the employees taking leave.
>
> Where a worker taking a paid holiday travels to his/her home he/she shall be entitled to additional holiday without pay for a period equal to the number of days necessarily spent traveling to and from his/her home by the route and method of travel paid for by the employer."

By way of review, the respondent proposed to amend this clause by adding another paragraph to read:

> **"Western, Choiseul & Russell Islands 2 days**
> **All other Provinces 4 days."**

In support of the amendment, the respondent claimed that the allowance of a maximum of two days traveling is sufficient for Choiseul and Russell Islands as compared to four days as claimed by the union. For all other

Provinces the respondent believed that it would take two days traveling to those provinces from Ringgi and hence a maximum of four days in total of unpaid travel days as compared to six days claimed by the union. The employer stated that it is aware of problems associated with shipping and weather but when literally considering actual travel time to reach destination, provided all arrangements are in place, the days proposed in the amendment should be adequate to serve its intended purpose.

In considering both submissions, the Panel considers the following unpaid traveling days as fair and reasonable for the respondent's employees:

| | |
|---|---|
| Western, Choiseul, Russell Islands | 2 days |
| Temotu | 6 days |
| Rennell and Bellona | 6 days |
| All other Provinces | 4 days |

Where an employee is unable return to work on the date he/she is supposed to resume duty, of course, it is for that employee to inform his/her employer as to the reasons for his lateness that he/she should be given further extension of the unpaid traveling days.

**Appendix 1 - Clause 16**

Here the respondent proposed to insert an additional clause (clause 16) to read as follows:

> **"Any strike notice to be tendered to the Employer must be signed by both the SINUW official and the Union Central Committee (UCC) executive."**

The Panel finds no difficulty in accepting the wording or the rational behind this clause as it benefits both parties. It avoids any later claim (as sometimes made) that the union had issued the strike notice without the knowledge of the employees through their immediate representatives, the Union Central Committee in this case. Its applicability cannot be said to be impracticable as claimed by the Union. Where resolutions are made for any strike notice, such resolutions must come from both the UCC and the union officials and it is important that they both sign the strike notice to confirm their stand on such a very important issue. As we are all aware, where a strike is illegal,

this can have repercussions on the workers themselves and even those organizing it. Hence, the Panel allows this additional clause to be inserted as clause 16 under Appendix III of the Collective Agreement.

**Clause 18 – Check off System**

Clause 18 of the Collective Agreement states **"the Company agrees to deduct the Union membership annual subscription fees from their employee member's salaries after the employees voluntarily sign check-off forms."**

By review, the respondent proposed an amendment to that clause to the effect that the employees (union members) each year signs off check-off forms before their subscription fees are deducted. It claims that such amendment should give effect to clause 18 that consent for such deductions should be voluntary.

The Panel however does not see any genuine reason for facilitating or allowing such amendment. The existing clause in the panel's view can also mean that by signing the check-off system at the first place, the employee has consented for his/her membership fees to be deducted every year. This is a well established practice adopted not only by SINUW but also other unions which the Panel does not have any reason to change. Where an employee decides to cease his/her membership to any union, at any stage, he/she can simply inform both the union and the employer of such decision so that his/her membership fees should not be deducted for that purpose.

**Appendix III - Wages**

Under the 2004 Collective Agreement, the wages, allowances and incentives as spelt out in Appendix III of that agreement can be reviewed at the end of each 12 month period commencing 1st April of each calendar year.

In 2006 the parties negotiated a wage increase for 2006 for the workers. The union claimed they had agreed for an increase of 5%. This was disputed by the respondent that they had never reached such agreement.

The respondent stated that it simply could not agree to award any wage increase because at that time the company was at the verge of bankruptcy. Its financial standing was made clear to the union during the negotiation. Because of that, it had made no commitment to pay any wage increase or COLA should its financial standing be improved in 2006.

The respondent further stated that in December 2006, the company was fortunate to find a new investor who was willing to take over the shares of the previous shareholder (CDC) despite KFPL's financial standing at that time. The investor is Tropical Timber Fund (TTF) which now manages KFPL. By July 2007 the KFPL had slightly improved in its trading position that it was able to pay an hourly increase across the board to all its employees following the SINUW/KFPL negotiations that year. According to the respondent such offer constitutes 52% wage increase for lower grades and 15% for higher grades.

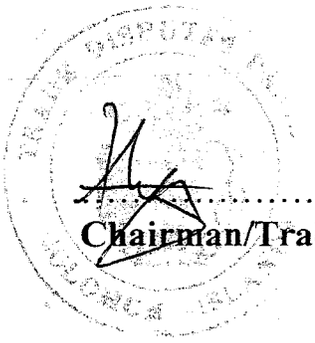
In considering both submissions, the Panel finds that in the 2006 negotiation the parties had not reached any agreement for any pay increase to the employees. What seems apparent is that the company (KFPL) at that time was in a critical financial situation that it was unable to award any wage increase to the employees although such increase was justifiable taking into account the CPI (3 months – 9.5%; 12 months – 8.8%) for 2006. On that basis, it would also be unreasonable for the Panel to award any COLA to the employees for 2006.

In the 2007 SINUW/KFPL negotiation, the union demanded a 10% increase to be backdated to 1st April 2007. The company however refused the wage increase as demanded by the union and offered a dollar an hour increase across the board to all employees instead. Without even reaching any agreement on the issue, the respondent went on to pay the one dollar per hour increase to its employees. Such increase as accepted by the Panel constitutes a 52% pay increase for the lower grade employees and 15% to higher grade employees. Such pay increase obviously is more beneficial to the employees than the 10% wage increase as demanded by the union, and hence, the Panel does not have any reason not to uphold it. The Panel however considers that the pay increase as already paid to the employees be backdated to April 2007 if not yet done so.

Accordingly, the Panel makes the following orders:

1. **No wage increase is awarded for 2006.**
2. **Wage increase for 2007 as already implemented by the respondent is upheld but to be backdated to 1st April 2007 (if not yet done so).**
3. **The parties are at liberty to negotiate other incentives and allowances as provided for under the Collective Agreement.**
4. **Both parties are to contribute $1,500.00 each towards panel expenses within 14 days.**

On behalf of the Panel:



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**Chairman/Trade Disputes Panel**