

**IN THE TRADE DISPUTES PANEL
SOLOMON ISLANDS**

Case No. UDFs 34-35/12

BETWEEN: Julie Ben and Annie Kini (Complainants)

AND: Ex-Field Bakery (Respondent)

Panel: 1. Francis Cecil Luza - Chairman
2. John Adifaka - Employer representative
3. Elizah Gui - Employee representative

Appearance: Selson Fafale, Labour Officer for the complainant.

Respondent barred.

Date of hearing: 12/9/12

Finding delivered: 10/12/12

FINDING

By complaints lodged to the Panel on 1/6/12, the complainants claimed that they were unfairly dismissed by the respondent on 22/3/12.

On 7/6/12, the Panel secretary issued three copies of notices of appearance (TDP Forms 2) in respect of each of the complaint to the respondent to be completed and returned to the Panel Secretary within 21 days from the date it received the forms.

At the lapse of the 21 days, however, the forms were never returned to the Panel secretary as required of the respondent.

On 16/7/12, the Panel secretary wrote to the respondent reminding it of its failure to file the TDP 2 forms. In the same correspondence, the respondent was advised to attend a hearing on 22/8/12 at 09.00am and to apply for an extension of time to file the TDP 2 Forms if it wished to take part in the proceeding.

At the hearing on 22/8/12, however, the respondent failed to make any appearance. Consequently, the complainant applied for an order to bar the respondent from taking part in the proceeding. The Panel granted the application and adjourned the matter for 12/9/12 at 09.30 am.

At the hearing on 12/9/12 both complainants gave evidence. In their sworn evidence they told the Panel that they were employed by the respondent company which operates a bakery at Ranadi. They were employed as a bread slicer. Julie Ben started in April 2011 whilst Annie Kini on October 2010. They worked eight hours a day. Julie Ben received a fortnight salary of \$560.00 whilst Annie Kini received \$600.00.

As to their termination, they told the Panel that they were not informed of the reasons for their termination. When they both went for work on 23/3/12, the wife of the boss, Mrs. Mary Eke told them to go back and returned the following Friday. They did as Mary Eke had told them. When they returned on the following Friday, Mrs. Eke again told them to go back and return the following Tuesday. When they went back on that Tuesday, the daughter, Wenny Eke handed them an envelope each without saying anything to them. The envelope contained their last pay. They only heard from other work colleagues that they were terminated. There was no termination letter issued to them.

In unfair dismissal cases, the onus is on the employer to prove that the complainant was not unfairly dismissed. In this case, the respondent had lost its opportunity to discharge such burden as a result of its own failure to file its defense (TDP Form2s) that resulted to an order by the Panel to disallow the respondent taking part in the proceeding.

On the sworn evidence of both complainants however the Panel is satisfied that both complainants were dismissed for no reasons. If there was any, the respondent had failed to disclose it to the complainants at the time of their dismissal. At least, a termination letter should have been issued to inform them of the reasons for their termination.

Having said that, and in all the circumstances, the Panel finds that both complainants were unfairly dismissed.

Award

In considering award in this matter, the Panel notes as follows. Both complainants have still not secured any employment since termination. Upon termination, the complainants were not paid one month salary in lieu of notice.

Compensation is therefore calculated as follows.

Julie Ben

1. One-month pay in lieu of notice	- \$1,120.00
2. Loss of employment: (3 x \$1,120.00)	- \$3,360.00
Total	\$4,480.00

Annie Kini

1. One month pay in lieu of notice	- \$1,200.00
2. Loss of employment (3 x \$1,200.00)	- \$3,600.00
Total	- \$4,800.00

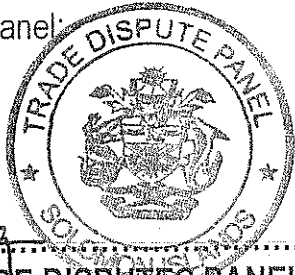
ORDER

1. The respondent is to pay \$4,480.00 as compensation to Julie Ben for her wrongful dismissal within 14 days.
2. The respondent is to pay \$4,800.00 to Annie Kini as compensation for her wrongful dismissal within 14 days.
3. The respondent is also to pay \$1,000.00 towards panel expenses within 14 days.

APPEAL

Right of appeal to the High Court within 14 days.

On behalf of the Panel:



[Handwritten Signature]
CHAIRMAN/TRADE DISPUTES PANEL