

IN THE TRADE DISPUTES PANEL

UDF NO36/2015

SOLOMON ISLANDS

BETWEEN: MIRIAM TOATA (Complainant)

AND: PREMIER GROUP OF COMPANIES (Respondent)

Panel:

- 1. Natalie Tadiki Kesaka - Chairman
- 2. Bryan Ulufia - Employer Representative
- 3. Edward Bamu - Employee Representative

Appearances: Mr. Berry Kepulu

Respondent Barred

Date of hearing: 13/4/2016

Finding delivered: 24/04/2018

FINDING

1. By way of complaint the TDP 1 form was filed by the complainant Mirriam Toata on the 21st of May 2015. TDP 2 was dispatched but there was no response from the Respondent when the matter was finally listed for pre hearing on the 17 of November 2015. This was some 6 months after the TDP 1 was filed and the TDP2 was dispatched.

2. The Commissioner of Labour made an application to bar the Respondents from further proceedings for their non-compliance with the TDP 2 during the pre-hearing. The application was granted and the matter was fixed for a Full Hearing on the 13th of April 2016.
3. The complainant in this matter commenced working as an intern through the SPC Youth at Work Program with the Premier Group of Companies at their Crystal Café located at the Henderson Domestic Terminal.
4. She worked as an intern for 6 months commencing on the 3rd of September 2012 and ended on the 18th of January 2013.
5. She became a permanent employer when she signed a contract of employment after her internship and continued to work with the Premier Group of Companies around March 2013 earning \$600 a fortnight.
6. In early June 2014 the complainant took leave for two weeks, when she resumed duties in late June 2014 there was a new supervisor employed by the Respondent at the Crystal Café, her name was Heather Haro.
7. In February 2015 the new supervisor insisted for the complainant to take an early leave instead of waiting for month of June which was her usual month for taking leave.
8. The new supervisor was bringing in her family to work so the complainant took leave from 28th of February and resumed on the 12th of March 2015.
9. When complainant called in at Crystal Cafe that morning for work she was informed by her supervisor that her employment had been terminated with immediate effect.
10. There was no termination letter and no payment made to her.
11. Complainant enquired about the reason for the termination and was informed that her termination was due to her boyfriend's disturbances during working hours.

12. The compliant denied the allegation.
13. The complainant left her work premises that day and went home around 8 am and proceeded to file the compliant with the Labour Office.
14. Having had the opportunity to assess the witness under oath in the witness box the Panel is not hesitant to believe her and is satisfied with her evidence. The complainant's termination was not procedural.
15. On that basis the Panel finds that the complaint was unfairly dismissed. Complaint was never given any opportunity to explain herself. There was no termination letter given as well. Termination was verbal and instant by the Respondent.

AWARD

16. In awarding compensation, the Panel notes the complainant was employed by the respondent as a permanent employee for 3 years. She was not paid a months' notice in lieu.
17. Compensation is therefore calculated as follows;

i. One – month pay in lieu of notice	- \$1200.00
ii. Loss of employment (3 x \$ 1200)	- \$3600.00
iii. TOTAL	-\$ 5800.00

ORDER

1. The respondent is to pay the sum of \$ 5800.00 as compensation to the complainant for her unfair dismissal within 14 days.
2. The respondent is to further pay \$ 1000.00 towards panel costs within 14 days.
3. The Respondent is to pay the sum of \$6800.00 within 14 days.

APPEAL

18. Right of Appeal to the High Court within 14 days.

