

in breach of the terms of the Act and of natural justice because the plaintiffs were not given an opportunity to be heard.

At a late stage in the plaintiffs' case, Miss Tonga sought to introduce an additional claim that the dismissal was not in accordance with the regulations of the Commission. That had not been pleaded and I refused the application.

At the close of the plaintiffs' case, Mr Foliaki submits there is no case to answer. His basic contention is that the evidence as revealed at this stage shows the Commission did give the plaintiffs an opportunity to make representations. His case is that the Board decision of 26 June 1998 was communicated to the plaintiffs and that was proper notice of the position.

The difficulty he faces in terms of a submission at this stage is that the plaintiffs dispute they were ever shown that decision. That is an issue of fact that will have to be determined before I can decide that case. The plaintiffs say that they were not told and only later found out that they were under threat of instant dismissal. That is sufficient to establish a prima facie case and the submission fails. The case must proceed.

NUKU'ALOFA, 2 May 2000.

CHIEF JUSTICE