

IN THE SUPREME COURT OF
THE REPUBLIC OF VANUATU
(Civil Jurisdiction)

Civil
Case No. 22/2604 SC/CIVL

BETWEEN: Smith Wuwut Koro
Claimant

AND: Police Service Commission Board
First Defendant

AND: Republic of Vanuatu
Second Defendant

Date: 24 January 2024
Before: Justice V.M. Trief
Counsel: Claimant – in person
First and Second Defendants – Mr J. Wells

**DECISION AS TO CLAIMANT'S STRIKE OUT APPLICATION AGAINST THE FIRST AND
SECOND DEFENDANTS' DEFENCE**

1. This is the decision in relation to a contested application to strike out the Defendants' Defence.
2. The Claim is for damages following the termination of the Claimant Smith Wuwut Koro's employment. The Defendants filed Defence on 24 March 2023. The Claimant filed Reply to Second Defendant's Defence on 14 April 2023.
3. On 25 August 2023, the Claimant filed Strike-out Application against the First and Second Defendants' Defence (the 'Application'). The grounds of the Application are the Defendants' non-compliance with the Court's Orders to file and serve sworn statements, and that by its offer of settlement dated 6 December 2022, the Defendants have agreed to reinstate Mr Koro and settle his entitlements, and Mr Koro has agreed. Mr Koro's sworn statement was filed in support. It contained legal submissions.
4. The Defendants filed submissions in response on 7 December 2023. It was submitted that the Claimant's evidence does not contain material to prove the Claim, and he has not deposed any evidence for the Defendants to respond to. Further, that the Application does not contain any allegation about the Defence or reasons why it



should be struck out. It was submitted that the Application be dismissed, the Claim struck out and costs of VT100,000 ordered.

5. I now determine the Application.
6. Any offer of settlement between the parties (whether or not accepted) is not grounds to strike out a Defence. As to the non-compliance with the Court's Orders, I decline to strike out the Defence at this point but rather have this matter proceed to trial as soon as possible, which it will be as this matter is listed for trial on 31 January 2024.
7. As for the Defendants' submissions, it may be that the Claimant's evidence does not contain material to prove the Claim. However, a Defence has been filed. I would have expected the Defendants to file sworn statements to prove their Defence. The submissions did not assist me.
8. For the reasons given, the Application is **declined and dismissed**.
9. The costs of the Application are to lie where they fall.

**DATED at Port Vila this 24th day of January 2024
BY THE COURT**


.....
Justice Viran Molisa Trief

