

BETWEEN: **Antoine Malsungai**
First Appellant

Yvette Tevear
Second Appellant

AND: **Vanuatu Broadcasting and Television
Corporation**
Respondent

Date: 7th May 2019
Date of Decision: 10th May 2019

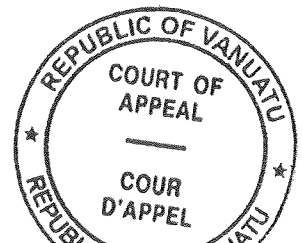
Before: *Justice J. von Doussa*
Justice R. Young
Justice O. Saksak
Justice D. Fatiaki
Justice G.A. Andrée Wiltens
Justice S. Felix

Counsel: *Mr A.I. Kalsakau for the Appellants (absent)*
Mr M. Hurley for the Respondent

MINUTE

A. Introduction

1. Following a continuing dispute between management and staff at Vanuatu Broadcasting and Television Corporation ("VBTC") two members of staff were suspended and later dismissed. They brought an action for wrongful dismissal, but lost in the Supreme Court. They now appeal to this Court on the basis that their dismissals were prompted by the fact they were leading figures in the union, and their dismissals were retaliation for their union activity, contrary to the existing Collective Bargaining Agreement and legally unjustified.
2. There had been disagreement between counsel regarding whether leave to appeal out of time was appropriate or not. In the end, it transpired that the appeal was filed on 30 October 2018 only some 7 days late, and the further delay has arisen in the Registry. In those circumstances, Mr Hurley no longer opposed, and we accordingly grant leave to appeal out of time by consent.
3. An Appeal Book has been filed, but no submissions by Mr Kalsakau - despite timetabling directions and an appearance at the call-over. Mr Hurley advised he had been promised

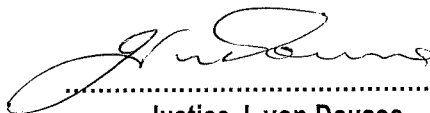


submissions by Friday last week, but it appears Mr Kalsakau may have taken to his sick bed. It has not been possible to contact him this morning – even his client Mr Malsungai had no success.

4. In the circumstances, this appeal is adjourned to the July session. Mr Hurley was content for that, subject to the matter being ready and being heard in that session, in default of which he indicated an application to strike out would be made.

Dated at Port Vila this 10th day of May 2019

BY THE COURT


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Justice J. von Doussa

