

**CONCILIATION, MEDIATION & ARBITRATION COMMISSION (CMAC)**

**HELD AT MBABANE**

**SWMZ 100/09**

**In the matter between:-**

**NCANE ALEXINAH TSABEDZE**

**APPLICANT**

**And**

**DISTELL SWAZILAND**

**RESPONDENT**

**CORAM:**

**Arbitrator : K. Manzini**  
**For Applicant : No appearance**  
**For Respondent : L. Van Wyk**

**ARBITRATION AWARD**

**1. PARTIES AND HEARING**

The Applicant herein is Ncane Alexinah Tsabedze, an adult Swazi female of P.O. Box 4341 Mbabane.

The Respondent is Distell Swaziland, a corporate body whose postal address is P.O. Box 140, Manzini.

**2. SUMMARY OF THE ISSUES**

This matter had been set down on two separate occasions. The first session was scheduled for the 6<sup>th</sup> of July, 2009. At this session the Applicant failed to make an appearance despite the fact that she received the invitation to a pre-arbitration on the 22<sup>nd</sup> of June, 2009. Ms Tsabedze personally signed a document which served as acknowledgment of receipt of same. On the day in question Ms Tsabedze did not turn up, and when enquiries were made, she was reported to be in Cape Town, and was due to return in August. The Respondent was present at these proceedings, and was duly represented by its Branch Manager.

The branch manager was appraised of this information and was informed that the matter would be postponed to the 4<sup>th</sup> of August, 2009 to facilitate the Applicant's attendance.

On the 4<sup>th</sup> of August, 2009 the Applicant, once again, did not make an appearance. On this occasion three of the company's senior officials flew in from Johannesburg and Durban respectively to be in attendance. An application was then made by the company's Human Resources Manager, one L. Van Wyk to have the matter dismissed as the Applicant was consistently not in attendance, and it was proving to be quite costly for the

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company to fly in its officials only to find that the matter does not proceed.

On the basis of the application moved by the company's Human Resources Manager, and also bearing in mind that the Applicant is fully aware of the proceedings, as they were instituted by herself, the award hereto is therefore issued by default as the Applicant has chosen to absent herself on two occasions.

**3. ANALYSIS OF EVIDENCE**

Whereas the certificate of unresolved dispute no. 244/09 filed herein states that this is a dispute of unfair dismissal. The said certificate lists the following to be issues in dispute:-

- (i) Notice pay

- (ii) Additional notice
- (iii) Severance allowance
- (iv) Maximum compensation for unfair dismissal.

It is common cause that the Respondent's representative moved an application for a dismissal of the claims of the Applicant in their entirety. It is also common cause that the Applicant was at all times aware of the proceedings, but was consistently not present at the hearings.

In the premises, I have no alternative, but to grant the application moved by the Respondent.

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#### **4. AWARD**

The Applicant's claims are hereby dismissed in their entirety.

SIGNED AT MBABANE ON THIS 20<sup>th</sup> DAY OF AUGUST, 2009.

KHONTAPHI MANZINI

CMAC ARBITRATOR

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