

IN THE INDUSTRIAL COURT OF SWAZILAND HELD AT MBABANE

In the matter between:

Case No. 79/92

PETROS KHUMALO

Applicant

and

HAPPY VALLEY MOTEL (PTY)
LIMITED

Respondent

R U L I N G

The Applicant in this matter is claiming compensation on the grounds that he was unlawfully and wrongfully dismissed by the Respondent. The Respondent has raised a preliminary matter namely that the application is not properly before court in terms of Rule 4 (1) (c) of the Industrial Court Rules 1984.

It is the Respondents case that the nature and full particulars of the case have not been set out and asks that it be dismissed.

For the Applicant it has been argued that the salary is shown in the Report of Dispute at page 4. This is a document submitted to the Labour Commissioner when a dispute is reported pursuant to Section 50 of the Industrial Relations Act. The court was then referred to various sections of the Industrial Relations Act of 1980 and the Employment Act of 1980 as authority for the heads of claim embodied in the Applicants application. Submissions were then made on the merits of the case and that the Applicant be granted his Judgement as prayed and that the reply be dismissed with costs as there is no shred of evidence to prove the allegations made against the Applicant by the Respondent.

We agree with the Respondent that the matter at this point in time for determination by the court is whether the Application filed by the Applicant complies with the rules of the court. Whether the Applicant has set out his case as required by Rule 4 (1) of the Industrial Court Rules of 1984.

A perusal of the Applicants application clearly does not set out the nature of the dispute. Borrowing from the Respondents words. The application is full of presumptions and speculations. The Respondent is expected to speculate.

as to what the Applicant is claiming. It does not permit the Respondent to transgress or meet the case that is being raised against it.

The purpose of pleadings is to let the other party know what is being alleged to enable it defend or admit if it so wishes. That the present application does not do. The application before court does not comply with Rule 4 (1) of the Industrial Court Rules of 1984. It is accordingly dismissed.



MARTIN SAMSON BANDA
INDUSTRIAL COURT PRESIDENT