



IN THE INDUSTRIAL COURT OF ESWATINI

HELD AT MBABANE

Case No. 338/2017

In the matter between:

MOSES MSIBI

Applicant

and

**GUARD ALERT SECURITY SERVICES
LTD**

Respondent

Neutral citation: Moses Msibi vs Guard Alert Security Services Ltd
[338/2017] [2018] SZIC 72 (13 July 2018)

Coram: Nsibande JP,
(Sitting with N.R. Manana and M.P. Dlamini
Nominated Members of the Court)

Date Heard: 27 June 2018

Date Delivered: 13 July 2018

RULING ON APPLICATION FOR REFERAL TO ARBITRATION

- [1] The Applicant, having filed an application for the determination of an unresolved dispute he has with Respondent, now seeks to have that dispute referred to the Conciliation, Mediation and Arbitration Commission for arbitration in terms of Section 85 (2) of the Industrial Relations Act 2000 (as amended).
- [2] The application is opposed on the grounds that:
- 2.1 The issues to be determined are tricky, complex and legalistic.
- 2.3 Not all arbitrations are qualified lawyers hence Respondent will be prejudiced if the matter is allocated to a non-lawyer because she/he may fail to fairly and correctly determine the dispute.
- 2.4 The sum of E55 382.47 is substantial hence the matter should be heard by the Court.
- [3] The Applicant claims he was dismissed unfairly both procedurally and substantively. He says he was dismissed for failing to carry out duties that did not fall under his job description. He also argues that he was not given an opportunity to appeal his dismissal.
- [4] I take cognisance of the reluctance of this Court to send a party to compulsory arbitration against its will. However, looking at the

circumstances of this matter and the pleadings filed, the qualifications of the CMAC arbitrators and the amount claimed, I am of the view that the Respondent stands to suffer no prejudice if the matter is referred to arbitration. The legal and factual issues arising can be dealt with by an experienced arbitrator.

[5] I am persuaded that this matter does land itself to be decided at the more flexible and simple process of arbitration.

[6] In the circumstances I make the following order;

1. **The dispute is referred to arbitration at CMAC.**
2. **There is no order as to costs.**



S. NSIBANDE

PRESIDENT OF THE INDUSTRIAL COURT

For Applicant: Mr Velaphi Magagula
(Labour Consultant)

For Respondent: Mr. H. Dube
(Labour Consultant)