



IN THE INDUSTRIAL COURT OF ESWATINI

RULING

Case No. 36/19

In the matter between:

CAIN HLATSHWAKO

Applicant

And

STYLE FORM BUILDING (PTY) LTD

Respondent

Neutral citation: Cain Hlatshwako v Style Form Building (Pty) Ltd (36/2019)
[2019] SZIC 60 (10 July 2019)

Coram: **S. NSIBANDE JP**

(Sitting with Nominated Members of the Court Mr. N. Manana
and Mr. M. Dlamini)

Heard: 10 April 2019

Delivered: 10 July 2019

RULING

- [1] The Applicant seeks an order that his matter be referred to arbitration by CMAC in accordance with **Section 85 (2) of the Industrial Relations Act 2000 as amended.**
- [2] The Applicant claims a total of E14 203.38 from the Respondent on the basis that he was unfairly dismissed both procedurally and substantially. He claims that he had not committed any offence that warranted the termination of his services. He claims further that he was not subjected to any disciplinary process prior to his dismissal.
- [3] The application was first before Court on 2nd April 2019 when it was postponed to the 10th April 2019. The Respondent did not appear despite receiving the application on 26th March 2019. The Applicant again served the Respondent's attorneys with a Notice of Set Down indicating that the application for referral would be heard on the 10th April 2019. The Notice of Set Down was served on Respondent's attorneys on 3rd April 2019 but again there was no appearance by the Respondent or its representative.

- [4] Despite the fact that no papers were filed by the Respondent and in the absence of consent to arbitration it is still necessary for the President of the Industrial Court to consider whether the matter is one suited for referral to arbitration under the auspices of CMAC.
- [5] The Applicant in his papers based the referral on two points namely that the matter is not complex and that the amount claimed (E14 203.38) is not substantial.
- [6] I have considered the pleadings and the submissions of the Applicant. I have no hesitation in coming to the conclusion that the issues for determination herein is not complex. The issue for determination is whether the Respondent did or did not comply with the relevant provisions of the Regulation of Wages (Security Industry) Order. Thus, in my view is a simple question of fact which can easily be determined. The amount sought is also not substantial at all and is capable of easy calculation based on the correct regulation of wages order.
- [7] Taking into account the nature of this dispute, the legal and factual issues arising from it, and the total amount of the claim, it is my conclusion that there will be no prejudice visited in the Respondent if the dispute is referred to arbitration.

[8] It is in the interests of justice and fairness that I accordingly make the following order:

(a) The dispute between the parties is referred to arbitration under the auspices of CMAC.

(b) Each party is to pay its own costs.



S. NSIBANDE

PRESIDENT OF THE INDUSTRIAL COURT

For the Applicant: Mr E.B. Dlamini

For the Respondent: No Appearance by or for Respondent