



IN THE INDUSTRIAL COURT OF ESWATINI
RULING

Case No. 316/18

In the matter between:

FIGA VUSUMUZI DLAMINI

Applicant

And

VAN NIEKERK PRODUCE

Respondent

Neutral citation: Figa Vusumuzi Dlamini V Van Niekerk Produce (316/2018)
[2020] SZIC 14 (11 February 2020)

Coram: **S. NSIBANDE JP**

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

Heard: 30 July 2019

Delivered: 11 February 2020

RULING

- [1] In his application for the determination of an unresolved dispute, the Applicant avers that he was dismissed by the Respondent on 6th February 2017 and that the dismissal was unfair substantively and procedurally. He claims reinstatement alternatively payment of E25 160.00 in respect of terminal benefits and compensation for unfair dismissal.
- [2] The Respondent opposed the application and in its Reply denies that Applicant was dismissed at all. It avers that the Applicant, having been hired on a 5 month contract ending on 1st March 2017, abandoned his employ on 6th February 2017 on his own accord.
- [3] The Applicant has now applied to the President for the referral of the unresolved dispute to the Conciliation Mediation and Arbitration Commission (CMAC) for arbitration. The Respondent has not filed any opposing papers and has not appeared in Court on both occasions that the matter was called despite being properly served with the necessary documents.
- [4] The Applicant seeks that the matter be referred to CMAC because the dispute is not complex nor does it involved any complex issues of law. The Applicant

further complains that this Honorable Court has a backlog of cases which may result in his matter taking a number of years before being tried.

[5] A consideration of the pleadings and the Applicant's submissions leave me with no doubt that this is a matter more suited to the less formal procedures of CMAC. In my view, there are no complex factual or legal issues that may arise from this matter that may require that it not be referred to arbitration. The amount sought is also not substantial even for an undertaking such as the Respondent.

[6] Further, the improved qualifications of CMAC arbitrators will off-set any prejudice the Respondent may suffer from the referral to CMAC arbitration. In the circumstances I order that;

- 1. The unresolved dispute between the parties is hereby referred to CMAC for arbitration;**
- 2. Each party is to pay its own costs.**



S. NSIBANDE

PRESIDENT OF THE INDUSTRIAL COURT

For the Applicant: Mr. M.R. Ndlangamandla

For the Respondent: No appearance