

IN THE CONCILIATION, MEDIATION AND ARBITRATION COMMISSION (CMAC)

HELD AT MANZINI SWMZ 244/08

In the matter between: -

ERNEST MANDLA MASUKU APPLICANT

And

ENVIRO SCRAP METAL RESPONDENT

Coram:

**Arbitrator : LORRAINE ZWANE
For Applicant : SABELO MSIMANGO
For Respondent : GCEBILE LUBISI**

ARBITRATION AWARD

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1. DETAILS OF HEARING/REPRESENTATION

1.1 The Applicant is Ernest Mandla Masuku of P.O.Box 2379, Manzini who was duly represented by Mr Sabelo Msimango, a union official from SMAWU.

1.2 The Respondent is Enviro Scrap Metal, a company duly registered in terms of the company laws of Swaziland, whose postal address is P.O. Box 168, Mbabane. The Respondent was duly represented by Gcebile Lubisi, a labour consultant from Maduduza Zwane Labour Law Consultants.

1.3 The parties were invited to attend a pre-arbitration meeting scheduled for the 13th January 2009. On that date all the parties were in attendance. I then explained the purpose of the pre-arbitration session and the actual arbitration process wherein the parties advised me that they were willing to resolve the dispute between themselves once and for all. The parties requested me to assist them to explore means by which the dispute could be resolved.

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2. ISSUE TO BE DECIDED

The issue for determination (in the event the dispute between the parties remained unresolved) was whether the Applicant's services were unfairly terminated or not.

3. BACKGROUND TO DISPUTE

3.1 The Respondent employed the Applicant on the 17th June 2001 in the capacity of a cutter. He earned a salary of E295.00 per week.

3.2 The Applicant was in continuous employment of the respondent until the 17th June 2008 when the respondent terminated his services.

3.3 Subsequent to his dismissal, the Applicant reported a dispute at CMAC, Manzini offices on the 7th August 2008.

3.4 The dispute between the parties was conciliated upon, however it was not resolved and as a result on the 30th September 2008, the Commission issued a Certificate of Unresolved Dispute. Thereafter, the parties by consent referred the matter to arbitration.

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3.5 I was then appointed by the Commission to arbitrate in the matter.

3.6 On the 13th January 2009 the parties were invited to a pre-arbitration meeting.

During the said meeting the parties indicated to me as the arbitrator that they intended to settle the dispute between them once and for all. The parties asked the arbitrator to facilitate the conciliation of the dispute within the arbitration.

Therefore the arbitrator with the consent of the parties facilitated the "conciliation process."

4. ANALYSIS OF EVIDENCE

No evidence was led and as such there is no need for analysis of evidence herein as the dispute between the parties was finally resolved through conciliation within the arbitration process.

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5. THE AWARD

5.1 On the 13th January 2009 the dispute between the parties was amicably resolved.

5.2 The parties entered into a memorandum of agreement in terms of which the Respondent agreed to pay the Applicant the sum of E11,000.00 (Eleven Thousand Emalangeni) in full and final settlement of the dispute between the parties. It was further agreed that the Respondent would liquidate the amount in two instalments of E5,500.00, the first instalment being payable on the 30th January 2009 and the last one on the 27th February, 2009 at CMAC Offices, 4th Floor SNAT Building.

A copy of the memorandum of agreement signed by the parties, dated the 13th January 2009 is attached hereto and it forms part of the award.

5.3 Having taken into account the party's memorandum of agreement, it is hereby ordered that an award is issued in favour of the Applicant in terms of the Memorandum of agreement dated 13th January 2009.

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THUS DONE AND SIGNED BY ME ON THE 6TH DAY OF FEBRUARY 2009.

LORRAINE ZWANE

CMAC ARBITRATOR