

**CONCILIATION, MEDIATION & ARBITRATION COMMISSION (CMAC)**

**HELD AT MANZINI      SWMZ 176/09**

**In the matter between:-**

**ZIBUSE DLAMINI APPLICANT**

**And**

**SWAZI PAPER MILLS RESPONDENT**

**CORAM:**

**Arbitrator :                      K. Manzini**  
**For Applicant :                No appearance**  
**For Respondent :              Mr. D. Shah**

**ARBITRATION AWARD**

**1. PARTIES AND HEARING**

The Applicant herein is Zibuse Dlamini, an adult Swazi male of P.O. Box 1158, Manzini.

The Respondent is Swazi Paper Mills, a corporate body, registered in terms of the laws of Swaziland. The Respondent's postal address is P.O. Box 873, Mbabane.

**2. SUMMARY OF THE ISSUES**

The certificate of unresolved dispute no. 438/09 on file indicates that the following are issues in dispute:-

- (i) Reinstatement
- (ii) Notice pay
- (iii) Additional notice
- (iv) Severance allowance
- (v) Maximum compensation for unfair dismissal
- (vi) Further and/ or alternative relief

The matter had been scheduled for a pre- arbitration meeting on the 27<sup>th</sup> of October 2009. The Applicant on this day did not make an appearance, whilst Mr. Andrew Rose, the converting Manager, and Mr. Dahval Shah, the Financial Controller both were in attendance to represent the Respondent.

The matter was then scheduled for the 20<sup>th</sup> of November, 2009 for a full arbitration hearing. Even on this day there was no appearance for the Applicant. Mr. Andrew Rose (Converting Manager), Mr. Noah Dladla (Quality Control Manager) and Mr. Dahval Shah (Financial Controller) were all in attendance to represent the Respondent.

**-2-**

There was proof that the invitation for the arbitration hearing was faxed to Swaziland Processing and Allied Workers Union (SPRAWU) on the 29<sup>th</sup> of October, 2009. Furthermore, efforts were made to contact the Applicant on his mobile telephone and he confirmed that his representatives were from SPRAWU, and that his matter was being handled by a Mr. Tom Simelane. Despite efforts to contact Mr. Simelane on his mobile phone, and also on the office telephone, it was not possible to get the Applicant's representative to attend the hearing as both the numbers used were disconnected. The Applicant himself stated that he was at work and would not be in a position to attend the hearing.

In view of the Applicant's non -availability, Mr. Shah then moved an application to have the matter dismissed, as the Applicant was consistently not in attendance, and did not show signs of taking the matter seriously. Mr. Shah pointed out that at all times, he and his managers had made efforts to be

present at the hearings, and stated that the company was in the process of being shut down, and all his staff had been retrenched.

Mr. Shah stated that even Mr. Rose and Mr. Dladla had been retrenched, and were no longer working for the Respondent. He further stated that the two managers had both come to the arbitration hearing at his request, and he had personally had to finance their traveling costs from Mbabane and Matsapha respectively.

-3-

Mr. Shah also stated that the Applicant had, as far as they were concerned been dismissed fairly as he had refused to follow a lawful instruction from his superior, and had been dismissed after a disciplinary hearing. It was Mr. Shah's view that the respondent was not indebted to the Applicant for any of the claims as set out in the certificate of unresolved dispute.

### **3. ANALYSIS OF EVIDENCE**

It is common cause that the Respondent's representative moved an application for the dismissal of the claims of the Applicant in their entirety. It is also common cause that the Applicant was at all times aware of the proceedings, but failed to make an appearance.

In the premise, I have no alternative but to grant the application moved by the Respondent.

### **4. AWARD**

The dispute as lodged by the Applicant is hereby dismissed, including all the claims as aforesaid.

SIGNED AT MBABANE ON THIS 9<sup>th</sup> DAY OF DECEMBER, 2009.

KHONTAPHI MANZINI

CMAC ARBITRATOR

-4-