



CONCILIATION, MEDIATION & ARBITRATION COMMISSION (CMAC)

HELD AT PIGGS PEAK

SWMB 001/15

In the matter between:-

SIPHESIHLE MONDLANE

APPLICANT

And

NATHI MASEKO T/A ELAWINI

MIRCO CASH LOANS

RESPONDENT

CORAM:

Arbitrator	:	Mr. M.C Simelane
For Applicant	:	Mr. Siphesihle Mondlane
For Respondent	:	Mr. Nathi Maseko

ARBITRATION AWARD

(07/02/17)

1. Parties and Representation

- 1.1** The Applicant is Siphesihle Mondlane a female adult of Piggs Peak represented in these proceedings by Sabelo Chirwa from Richstin Labour Law Consultants.
- 1.2** The Respondent is Nathi Maseko a Swazi male adult trading as Elawini Micro Cash Loan doing business at Emangisi House in Piggs Peak.

2. ISSUES IN DISPUTE

- 2.1** The Applicant filed a dispute that was conciliated upon however the dispute was unresolved and a Certificate of Unresolved Dispute was issued. In terms of the Amended Certificate of Unresolved Dispute the issues in dispute are as follows:

(a)	Reinstatement or 24 Months Compensation for Automatic unfair dismissal	E105,910.00
(b)	Leave days	E878.38

The certificate is dated 12th August 2015.

3. BACKGROUND FACTS

- 3.1** The parties attended pre-arbitration on the 24th of January 2017 wherein the parties expressed a desire to hold a conciliation within an arbitration.
- 3.2** The issues in dispute were narrowed down and agreed upon to be the capacity which Applicant was holding in the company against the responsibilities she was discharging. The parties were in agreement that this issue is contentious.

- 3.3** The parties were however in agreement that no hearing was held before the Applicant's employment was terminated.
- 3.4** The Respondent presented an offer of settlement "without prejudice" to the Applicant which was placed under consideration notwithstanding that the arbitration was to proceed on the set date.
- 3.5** On the day of arbitration the parties presented a position of consensus on the issues in dispute culminating to a settlement agreement. A Memorandum of Agreement was signed between the parties and the Respondent performed in terms of the Agreement instantly.

4. AWARD

4.1 It is hereby ordered that based on the Memorandum of Agreement attached hereto, the matter is hereby settled fully, and finally in terms of the conditions contained thereon, as hereunder mentioned:-

- (a) That the Respondent pays the Applicant a sum of E55,000.00 (Fifty Five Thousand Emalangi) as full, and final settlement of all the claims, that is, automatic unfair dismissal and all other claims.
- (b) That the Respondent will pay a deposit of E10,000.00 (Ten Thousand Emalangi) on the signing of the Memorandum of Agreement and to thereafter pay monthly instalments of E2,500.00 (Two Thousand Five hundred) commencing from 28th of the February 2017 and every 28th day of each month until the balance is paid in full. That payment should be consecutive every month. That the 18th of December 2017 shall be the date of performance in the month of December 2017.

- (c) That payment be directed at CMAC offices in Piggs Peak on the days the Commission is opened for business. The offices of the Commission in Piggs Peak are open every Tuesday and Thursday between the hours of 0800 and 15h00.

**THUS DONE AND SIGNED AT MBABANE ON THIS OF
FEBRUARY 2017.**

**(M.C SIMELANE)
CMAC ARBITRATOR**