



**IN THE CONCILIATION, MEDIATION AND ARBITRATION
COMMISSION (CMAC)**

HELD AT MBABANE

SWMB 49/18

In the matter between: -

CHARLES MALAZA

APPLICANT

And

AWESOME SECURITY SERVICES

RESPONDENT

CORAM:

Arbitrator : Lobenguni Manyatsi

For Applicant : No appearance

For Respondent : No appearance

ARBITRATION AWARD

{22/09/2020}

Venue : Mbabane Inner City Offices

Nature of Dispute : Unpaid Wages

1. Details of Parties and Hearing:

1.1 The Applicant is Charles Malaza, an alleged former employee of the Respondent.

1.2 The Respondent is Awesome Security Services, a security services company that had posts in the Hhohho Region, where the Applicant was stationed.

2. Issue for determination:

2.1 The issue for determination pertains to whether or not the Applicant was owed any wages by the Respondent.

3. Background to the dispute:

3.1 Applicant alleges that the Respondent owes him wages for the months of January 2017 to July 2017 yet he worked for those months.

3.2 Respondent on the other hand denies Applicant's claims and states that the Applicant was not employed by the Respondent during the said months, thus the Respondent is not obliged to pay the said amount.

3.3 The dispute was reported by the Applicant to the Commission, conciliated upon and subsequently certified as unresolved. A certificate of unresolved

dispute was issued at the conclusion of the conciliation proceedings.

3.4 The relief sought by the Applicant which appears on the Certificate of Unresolved Dispute is:

3.4.1 Unpaid wages E15, 360.80.

3.5 I was appointed to arbitrate the dispute pursuant to an Industrial Court referral as provided for by Section 8(8) and Section 85 (2) of the Industrial Relations Act, 2000 (as amended).

3.6 The parties were invited to a Pre-Arbitration meeting on the 25th March 2020 and both parties failed to attend same. The matter was postponed to the 22nd April 2020. However, it had to be subsequently rescheduled to the 8th July 2020 due to the national lockdown and state of emergency procedures announced by the Prime Minister to restrict movement and contact to mitigate the risk of COVID 19 transmission.

3.7 On the 8th July 2020 the matter could not proceed because the Respondent's last known address had changed and therefore he could not be served with an Invitation to Arbitration (CMAC Form 9). The Applicant also did not attend the Pre-Arbitration on this date.

- 3.8 The Applicant was called and to give assistance the Commission with directions to the Respondent's offices or the home addresses of the Directors.
- 3.9 The matter was subsequently postponed to the 2nd September 2020. The Applicant was called and informed of the new date and asked to pick up his invitation. Subsequent phone calls to the Applicant went unanswered and when the Applicant's representative was called, he disassociated himself from the matter.
- 3.10 The Respondent's invitation was posted by registered mail to the postal address provided by the Applicant to the Commission.
- 3.11 On the 2nd September, 2020, again both parties failed to attend the matter at the appointed time. The Applicant continued not to answer his calls and or return the call once he saw that he had a missed call.

4. **The Law:**

- 4.1 **Rule 27** of the **Rules for the Practice and the Conduct of the Proceedings before the Conciliation, Mediation and Arbitration Commission** (The Rules) made under **Section 64(2) (g)** of the **Industrial Relations Act, 2000 (as amended)** determines what happens if a party fails to attend at an Arbitration hearing.

4.2 **Rule 27 (1) (a)** of **The Rules** states that: *“if a party fails to attend an arbitration hearing or is not represented at an arbitration, and the commissioner is satisfied that the party not in attendance ... was properly notified of the arbitration hearing and there is no just or reasonable explanation for that party’s failure to attend ..., the commissioner may if the party who referred the dispute fails to attend the hearing ... dismiss the matter.”*

4.3 On all the dates when the hearing was scheduled to be held, the Applicant had been made aware of the date of hearing but he failed to attend and no reasonable explanation was forwarded on why he failed to attend.

4.4 I have satisfied myself that the Applicant was aware of the dates of the hearing. The matter is hereby dismissed.

**DATED AT MBABANE ON THE ___ DAY OF SEPTEMBER
2020**

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... LOBENGUNI Y. MANYATSI

CMAC ARBITRATOR