

IN THE LABOUR COURT OF LESOTHO

LC/REV/47/07

HELD AT MASERU

In the matter between:

MOHALE RAMOKOATSI

APPLICANT

and

**DIRECTORATE OF DISPUTE
PREVENTION AND RESOLUTION
SECURITY LESOTHO (PTY) LTD**

1ST RESPONDENT

2ND RESPONDENT

JUDGMENT

Review of arbitral proceedings – Arbitral purportedly relying on hearsay evidence – claim found to be lacking in substance and therefore dismissed.

1. The applicant is herein seeking to have reviewed, corrected and set aside the award of the Directorate of Dispute Prevention and Resolution (DDPR) in A 0124/07. The basis of this claim is that in reaching her decision the learned Arbitrator misdirected herself by basing her finding on hearsay evidence.

2. The applicant is an employee of the 2nd respondent, Security Lesotho. The gist of the applicant's complaint is that the latter unlawfully deducted from his salary an amount of Three Hundred Maloti (M300.00) from February, 2006 to the date of the hearing of the case before the DDPR which was on 8th March, 2007 in violation of Section 85 (3) of the Labour Code Order, 2009. The said deduction was styled a staff loan. His contention was that he never had a staff loan, hence the unlawfulness of the deduction, and had approached the DDPR to have his money paid back.

3. The second respondent conceded that the applicant did not have a staff loan but the money had erroneously been entered as a staff loan in his pay-slip but was for damage that had occurred at a supermarket, Great Supermarket where the employee had been posted a security guard (?)
4. The DDPR had established that indeed the applicant had not taken a staff loan, however he had been found liable for damage that had occurred in the course of employment (at Great Supermarket) and he never denied this. The learned Arbitrator found the deduction to have been lawful. It emerged that it had been put before the applicant at the DDPR that the deduction was a result of a disciplinary hearing wherein the applicant had been ordered to pay for the damage that had occurred at the workplace, and the applicant had not denied but merely insisted that he never took a staff loan.
5. Applicant's grounds for review were that the learned Arbitrator had based herself on hearsay evidence in that in reaching her decision she had relied on the evidence of a Mr. Makosholo, applicant's supervisor who had been informed about the incident.
6. In our view, the question of the DDPR relying on hearsay evidence does not arise as the applicant himself never denied the said incident and that he had been reprimanded for it. In the circumstances of this case, it is irrelevant how the 2nd respondent learned of the purported damage because the applicant never refuted it.
7. There is really no substance in this claim. It appears there was a clerical error which could have just been sorted out administratively instead of overburdening Courts which are faced with very serious backlog of cases. This is one of the cases where the applicant ought to be mulcted with costs.
8. The application is dismissed, and the DDPR award is upheld. There is no order as to costs.

**THUS DONE AND DATED AT MASERU THIS 22ND DAY OF
SEPTEMBER, 2009.**

**F.M. KHABO
DEPUTY PRESIDENT**

**M. THAKALEKOALA
MEMBER**

I CONCUR

**M. MAKHETHA
MEMBER**

I CONCUR

REPRESENTATION;

**FOR APPLICANT: MR. K. MAHLEHLE – LESOTHO
SECURITY OFFICERS AND ALLIED
WORKERS' UNION**

FOR RESPONDENT: MR. P. PHATS'OANE