NBPS1442-24 Date: 01 April 2025

AWARD COVER SHEET

TO: Norman Sieda **Applicant**
C/o: Sisele Close
Olivenhoutbosch
Extension 23
Centurion
0187
Email:

TO: CTR Security **Respondent**
C/o: Pritchaard Street
Johannesburg North
Email: Jannette@ctrprotection.co.za; admin4@saueo.co.za

MESSAGE:

Please find the attached arbitration award from Commissioner Letsai for the case number: NBPS1442-24.

Thabile Ncamane

NBCPSS: CMO

NATIONAL BARGAINING COUNCIL
FOR THE PRIVATE SECURITY SECTOR

ARBITRATION AWARD

Case Number: NBPS1442-24
Commissioner: Pearl Letsai
Date of Award: 30 March 2025

In the ARBITRATION between

Norman Sieda

Name of Union and Applicant
(Union / Applicant)

and

CTR Security

(Respondent)

Union/Applicant's representative:
Union/Applicant's address: As per file

Telephone:
Telefax:
E-mail:

Respondent's representative:
Respondent's address: As per file

Telephone:
Telefax:
E-mail:

DETAILS OF HEARING AND REPRESENTATION

1. This is the award in the arbitration between Mr. Norman Sieda ("the Applicant") and CTR Security ("the Respondent") in terms of section 191(5)(a) of the Labour Relations LRA 66 of 1995 as amended (the LRA). The award is issued in terms of section 138(7) of the Act.
2. The matter was set down for Arbitration on 14 February 2025 and proceeded on 20 March 2025 under the auspices of the National Bargaining Council for the Private Security Sector ("NBCPSS").
3. The Applicant was present and presented his case, while the Respondent was represented by Mr Reitumetse Morukhu, SAUEO Official. The Respondent submitted a bundle of documents marked "R".
4. The proceedings were conducted in English, interpreted in Tshivenda and were digitally recorded. I also took handwritten notes which are not verbatim.

ISSUE TO BE DECIDED

5. The Applicant is disputing the procedural and substantive fairness of the dismissal. I am therefore required to decide whether the dismissal of the Applicant was substantively and procedurally fair, and, if so, order the appropriate relief.

BACKGROUND TO THE MATTER

6. The Applicant was employed by the Respondent, CTR Security on 31 March 2023 as a Security Officer.
7. The Applicant alleged that he was unfairly dismissed by the Respondent on 08 February 2024 and referred the dismissal dispute to the NBCPSS on 09 February 2024.
8. He is challenging both the procedural and substantive fairness of his dismissal. The Applicant submitted that he did not commit the alleged offences and that dismissal was harsh a sanction.
9. The Respondent submitted that the Applicant was summoned to the disciplinary hearing, charged and dismissed on 08 February 2024 on allegations of:
   (a) Dereliction of duties.
   (b) Bringing the company name into disrepute.
10. The Applicant seeks compensation as relief.

ANALYSIS OF THE EVIDENCE AND ARGUMENT

11. The Applicant relied on his own testimony while the Respondent relied on the testimony of 3 witnesses, namely Mr Mashoane Motaung ("Mr. Motaung"), the Operations Manager, Ms Angela Bender ("Ms Bender") the Chairperson and Mr Eric Baloyi (Mr Baloyi), the shift Manager, video evidence and a copy of a complaint email from the visitor were presented during the hearing. All witnesses testified under oath. The Respondent bears the onus to prove, on a balance of probabilities that the Applicant's dismissal was for fair reason and effected in accordance with a fair procedure.

12. Section 188(1) provides that a dismissal is unfair if the employer fails to prove that the reason for dismissal is for a fair reason related to the employee's conduct or capacity or based on the employer's operational requirements and that the dismissal was effected in accordance with a fair procedure.

13. **Grogan in Workplace Law (11ed) on page 233** states that "the existence of a rule may be proved by reference to the employee's contract, or in an applicable collective agreement or disciplinary code. However, the rule need not exist in written form. It is generally assumed that certain conduct is calculated to destroy the employment relationship, whether or not it is expressly prohibited in a contract or disciplinary code, and that the employee knew or should have known that this conduct could lead to dismissal".

14. The Applicant was assigned at Monte Casino, a client of the Respondent. During arbitration, a video footage was presented as evidence. The footage depicted Mr. Sieda conducting security searches on visitors at Monte Casino, including a visitor named Mr. Kenneth Makhafula, who is seen waiting at the side after a search. Subsequently Mr Mahafula is observed with the Applicant and Mr. Eric Baloi, the Shift Manager. The footage further shows them engaged in a discussion, during which Mr. Makhafula lifts his jacket to reveal a firearm on his waist.

15. The Respondent first called Mr. Masheane, the Operations Manager, who had received a complaint email from Mr. Makhafula, the content of which are as follows "I was not happy with the level of searching by one of your guards who let me in without detecting my firearm. I can confirm that I am not happy of how he conducted himself afterwards. The safety of me and my family is not guaranteed at that place. I was also appalled by the attitude and the rudeness of the same guard when I informed him that I had a firearm and showed it to him. To make it worse his rude attitude towards me was reflected even in front of his manager. I am a guest and should be treated equally with respect. Be assured that am gonna write a review on social media about my experience. My wife and I had since cancelled our dinner since it was ruined with the bad experience." Mr. Masheane further testified that he viewed the footage and saw the firearm on Mr. Makhafula, confirming that the Applicant failed to conduct a proper search. Additionally, he noted that the Applicant's behavior was also rude during the interaction.

16. The Applicant challenges both substantive and procedural fairness of his dismissal, arguing that he was not given the opportunity to respond to the charges and that the disciplinary proceedings were unfair. He further submitted that the Chairperson dismissed him based on half-warning that had been issued.

17. The Respondent called Ms. Bender the second witness, to testify on the procedural fairness of the Applicant's dismissal and the Company Code of Conduct. Ms. Bender testified that the Applicant was given an opportunity to respond to the charges and referred to pages 1, 2, 3 and 20 of bundle of evidence, where the Applicant signed to acknowledge disciplinary enquiry documents.

18. Ms. Bender also testified that during the disciplinary hearing, the Applicant exhibited aggressive and unprofessional behaviour. He stood up and approached her closely, and said, "You can do whatever

you want, I want my outcome tomorrow," before walking out of the proceedings. This level of defiance and disrespect was unacceptable. She continued with the process in absencia and dismissed the Applicant in accordance with the Code of Conduct, which he had signed, as outlined on page 76 of bundle "R". I am therefore persuaded that the procedure was not flawed, as the Applicant presented no evidence to challenge the Respondent's submission.

19. The Respondent's third witness, Mr. Baloi, a Shift Manager, testified that he was informed by an officer on duty with the Applicant about the incident in question. He proceeded to the security area to meet Mr. Makhafula, who expressed dissatisfaction with Mr. Seida's failure to detect his firearm and as well as his rude attitude and behavior. Mr. Makhafula demonstrated the firearm to both Mr. Baloyi and the Applicant, highlighting the failure to detect it.

20. The Respondent argued that it had exhausted all reasonable measures to correct the Applicant's behavior before proceeding with dismissal. Despite his short tenure with the company, the Applicant had already been issued a warning for incitement within two months of his employment, an offense that could have warranted dismissal. Instead of improving his conduct, the Applicant continued to disregard company policies and security protocols, leaving the Respondent with no option but to take decisive action.

21. The Applicant contended that he performed his duties diligently and conducted the search of the guest as required. He expressed confusion over the reasons for his dismissal, believing it to be unfair. He also argued that his dismissal was premeditated, as there was no firearm on the guest. Furthermore, he pointed to the evidence on page 41 of the bundle, which he claimed shows that the employees were dissatisfied with the Respondent's treatment. Despite expressing these grievances, he was charged with incitement and issued a warning for same.

22. The evidence against Mr. Sieda, including video footage and testimonies of three witnesses, corroborated the claim that the visitor had a firearm, which the Applicant failed to identify. The video footage clearly showed the visitor lifting his jacket to reveal the weapon, a fact confirmed by the eye witness Mr. Baloyi and other 2 witnesses. Despite this, Mr. Seida continued to deny the presence of the gun, further compromised his credibility.

23. In addition to the failing to detect the firearm, evidence of the Applicant's unprofessional conduct was highlighted by Mr. Makhafula in an email to the initiator, where he cited the Applicant's rudeness, as well as by the chairperson, Ms. Bender, during the disciplinary hearing. This behavior further tarnished the Respondent's reputation. The Applicant repeated this unprofessional conduct during the arbitration process, where he displayed a dismissive and confrontational attitude, frequently interrupting witnesses during their testimony. He had to be calmed down multiple times. His aggression during the viewing of the video footage further emphasized his unprofessional behavior. The Applicant's conduct as a witness was invasive, and he showed no remorse for his actions.

24. In light of the above facts. I find the dismissal of Mr. Sieda, the Applicant by CTR Security, the Respondent was procedurally and substantively fair and the Applicant is not entitled to the relief of compensation, as sought. Furthermore, I find that the Respondent has discharged the burden of proving on a balance of probabilities, that the Applicant's dismissal was based on a fair reason, effected with a fair procedure. This conclusion is supported by the video evidence presented, as well as the testimonies of the 3 witnesses who corroborated the events.

AWARD:

25. I find the dismissal of the Applicant **Mr. Norman Sieda**, by **CTR Security**, the Respondent, was procedurally and substantively fair.

26. The Applicant's case is dismissed.

Signature:

NBCPSS Commissioner: Pearl Letsai

Sector: Private Security