

SOUTH AFRICA / JUDGMENT

Malatji v Metal Engineering Bargaining Council and Others (JR1230/19) [2019]

ZALCJHB 365 (5 December 2019)

[2019] ZALCJHB 365

COURT

Labour Court Johannesburg

BEFORE

Van Niekerk

CASE / FILE NUMBER

JR1230/19

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THE

LABOUR COURT OF SOUTH AFRICA , JOHANNESBURG

Not

reportable

CASE

NO: JR1230/19

In

the matter between:

WILLIAM

NGAKA MALATJI

Applicant

And

METAL

ENGINEERING BARGAINING COUNCIL First

Respondent

MAPALO

TSATSIMPE

Second

Respondent

BURGER

& COMPANY (PTY) LTD

Third Respondent

Heard

: 3 December 2019

Judgment

delivered: 5 December 2019

JUDGMENT

VAN NIEKERK J

- [1] This is an unopposed application in which the applicant seeks to review and set aside a ruling made by the second respondent (the arbitrator). In her ruling the arbitrator found that the applicant had not been dismissed by the first respondent, and on that basis, dismissed the applicant's referral of a dispute concerning what he alleged was his unfair dismissal.
- [2] There is no record of the proceedings under review, at least not in the form of a transcription of the evidence that was led by the applicant. However, the arbitrator's ruling contains what would appear to be a good summary of the evidence, and I will have regard to that summary for the purposes of the present application. The arbitrator concluded that the applicant had not established the fact of his dismissal. He had given contradictory evidence, and failed to produce documentation on which he relied. He accepted a form from his employer stating that his employment had terminated on account of the expiry of his contract, and used the form to claim benefits. The applicant's referral was accordingly dismissed.
- [3] The application for review was completed on a standard form issued by the registrar's office. The application contains no more than a recitation of the version given at the arbitration hearing and rejected by the arbitrator. There are no grounds for review recognised by law. The applicant is simply dissatisfied with the outcome, and seeks a different outcome in this court. Of course, that remedy is not available to him. The applicant has failed to assert let alone establish that the arbitrator's decision was so unreasonable that no reasonable decision-maker could reach it on the evidence. The arbitrator considered the evidence before her, appreciated the nature of the enquiry that she was to conduct and made a decision that was reasonable in the circumstances. In these circumstances, the application to review her ruling stands to be dismissed.

I make the following order:

1. The application is dismissed.

André van Niekerk

Judge

REPRESENTATION

For the applicant: In person

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