

IN THE LABOUR COURT OF SOUTH AFRICA
HELD AND BRAAMFONTEIN

CASE NO: JR 483/06

Heard and Delivered: 2009.09.16

Edited: 29 July 2010

Not Reportable

In the matter between

MOTHIBE A MANKWE

Applicant

And

COMMISSIONER NOWOSENZ

First Respondent

10 **CCMA PRETORIA**

Second Respondent

CLICKS STORES

Third Respondent

J U D G M E N T

PILLAY D, J:

This is an application to review and set aside the award of the first respondent commissioner. The test set in *Sidumo & Another v Rustenburg Platinum Mines Ltd & Others* 2007 12 BLLR 1097 CC applies. That test is that an award is reviewable if the decision reached by the commissioner is

20 one that a reasonable decision maker could not reach.

In this case the commissioner was faced with conflicting facts. He had to make a credibility finding. He preferred the evidence of the third respondent employer. The applicant employee's evidence was substantially uncorroborated. The award itself is rational and reasonable.

It meets the *Sidumo* test in that it is a reasonable award that could be reached by a commissioner.

The application for a review is dismissed with costs.

Pillay D

30 Judge

Appearances:

For Applicant: Retail and Allied Workers Union: Mr Khoza

For Respondent: Adv M J Van As : Instructed by Deney's Reitz