

IN THE INDUSTRIAL RELATIONS COURT OF MALAWI

MZUZU REGISTRY

MATTER NO. IRC 61 OF 2005

BETWEEN

KASAMBALA..... APPLICANT

AND

KAVUZI MOTORS.....RESPONDENT

CORAM: R. Zibelu Banda (Ms) Chairperson
Nyirenda A. Assistant Registrar, High Court (Mzuzu Registry)
Mhango; Managing Director for the Respondent
Applicant- present
Namponya; Official Interpreter

JUDGMENT

Dismissal-Reason-Absenteeism-Procedure-Right to be heard.

Upon hearing both parties to this case, the court finds that the applicant had a habit of skipping work through absenteeism. He was a Watchman and yet he on several occasions failed to turn up for duties. He was asked to explain his absenteeism. His explanation was not satisfactory. He was verbally warned before for similar misconduct.

Absenteeism is serious misconduct entitling an employer to dismiss summarily, see section 59 of the Employment Act. Also see *Mchika V Illovo Sugar Company Ltd* [Matter No. IRC 252/2005 (unreported)]. The reason was valid and the procedure before termination was fair. The respondent complied with section 57 of the Employment Act.

Where an employee is dismissed summarily he is not entitled to notice pay or severance allowance, see section 59 (2) and 35 (6)(b) of the Employment Act. The claim for leave pay was not proved. This action is therefore dismissed in its entirety.

Any party aggrieved by this decision is at liberty to appeal to the High Court within 30 days of this judgment, see section 65 (2) Labour Relations Act 1996.

Pronounced in Open Court this 31st day of January 2007 at **BLANTYRE.**

Rachel Zibelu Banda
CHAIPERSON.