Moonlighting Or Side Hustles In South Africa

What is moonlighting? Moonlighting can be described as doing more than one job at a time. For example, persons may have a side job or a part-time job which they do after they leave their day job. These jobs are usually done at night or at odd times when the employee has the time. This can sometimes be a secret job that your employer is not aware of.

In the recent case of Bakenrug Meat (PTY) Ltd t/a Joostenberg Meat v CCMA and others, Bakenrug, who was in the business of producing and selling a range of meat products, dismissed an employee who operated a business of her own in which she marketed biltong. The ground for dismissal was that the employee was found guilty of the charge 'that she took up employment while working in another capacity.'

After the decision of the Conciliation, Mediation and Arbitration (CCMA) and the Labour Court, the matter proceeded to the Labour Appeal Court, where the Labour Court's decision was ultimately overturned on appeal.

In her ruling, Justice Davis held that there was clear evidence that the employee did not disclose an essential and material fact to her employer, namely that she was independently operating a business in marketing meat products, irrespective of the fact that the meat products were not identical to her employer's.

The mere fact that operating her business did not affect her performance as an employee during the week was not important. Of importance was that she was employed as a sales representative in a business marketing meat products while she was also involved in marketing meat products as a side job on weekends.

The employee's failure to inform her employer of these martial activities amounted to dishonesty and a violation of her duty of good faith towards the employer. Justice Davis, therefore, found that the commissioner arrived at a reasonable decision and that the dismissal was in fact, substantively fair. As a result, the judgement of the Labour Court was set aside.

This case serves as a prime example of the extent of the "duty of good faith" an

employee owes to their employer, and the far-reaching consequences should this duty be breached.

To be safe, it is advisable to inform your employer of any and all side jobs. This will allow your employer to determine whether there is a conflict of interest should you continue having a side job or moonlighting.

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