

UNIVERSITY OF SWAZILAND

DEPARTMENT OF LAW

FINAL EXAMINATION PAPER, 2007 (MAIN)

TITLE OF PAPER : LABOUR LAW

COURSE CODE : L304/L607

TIME ALLOWED : THREE (3) HOURS

INSTRUCTIONS : ANSWER FOUR (4) QUESTIONS  
ALL QUESTIONS CARRY EQUAL MARKS

**THIS PAPER IS NOT TO BE OPENED UNTIL PERMISSION HAS BEEN  
GRANTED BY THE INVIGILATOR.**

**QUESTION ONE**

Your client Tintfombi Simelane comes to you for advice. She hands you a charge sheet which was given to her by her employer and this is what is contained in the charge sheet:

*TO: Tinfombi Simelane*

*DATE: 14<sup>th</sup> April 2007*

***NOTICE TO ATTEND A DISCIPLINARY HEARING***

*You are hereby invited to attend a disciplinary hearing at the company's boardroom on the 15<sup>th</sup> of April 2007.*

This charge sheet is signed by the Human Resources Manager of the company and contains no other information. Ms. Simelane tells you that a hearing was held on the date specified in the notice and the chairperson of the hearing found her guilty of theft of company property and recommended that she be dismissed. All this happened within a few hours on the 15<sup>th</sup> of April and she was then called by the human resources office where she was told that pursuant to the hearing her employment with the company was terminated. She received no money from the company save payment for leave days due but not taken.

Ms. Simelane tells you that she wants to know her chances for success should she take the matter further.

(25 Marks)

## **QUESTION TWO**

After hearing your advice under **Question one** above, Ms. Simelane asks you to explain the procedure she would have to follow if she were to decide to pursue the matter and what she ought to expect from the time she initiates her case to the time it gets to resolution.

(25 Marks)

## **QUESTION THREE**

Lungile Maphalala has approached you following a disagreement between herself and the company she says is her employer. The company, ABC (Pty) Ltd is a manufacturing company based in Matsapha. Lungile alleges that she was employed by the company on the 1<sup>st</sup> January, 2005 as an engineer. She has an office within the company which she shares with another engineer, Bongekile Singwane, who reports only to Lungile and is paid by her. Lungile is provided with protective clothing by the company but is not entitled to a fixed salary. The company pays her based on the amount of work she does for them from time to time and it is from this amount that she pays Bongekile. Lungile has an engineering company and this company does work for several other manufacturing companies locally and internationally. Lungile and Bongekile are sometimes called on to go to these other companies and when this happens, they leave someone else to hold the fort at ABC (Pty) Ltd. On the 1<sup>st</sup> of April 2007, ABC (Pty) Ltd decided they did not need Lungile's services anymore as they had employed a full time engineer to do the job previously done by Lungile and Bongekile. Lungile immediately reported a dispute with the Conciliation, Mediation and Arbitration Commission (CMAC) for unfair dismissal. This dispute remains unresolved after conciliation and the parties have agreed that the matter go on to arbitration. Discuss all the issues that arise, making reference to decided cases.

(25 Marks)

#### **QUESTION FOUR**

Maqhawe Dlamini is an employee of ABC (Pty) Ltd. He is employed primarily as secretary to the Human Resources Manager. The Company is going through financial difficulty and has reduced its staff. Remaining employees like Mr. Dlamini have been asked by the company to take on additional responsibility. Mr. Dlamini has been asked to receive all cash amounts on behalf of the company and ensure that such money is deposited at the bank by ten o'clock on the day following its receipt. Cash receipts are reconciled at the end of every week by Eugene Thring. On the week ending on the 9<sup>th</sup> March, 2007, the cash receipt book did not reconcile with the bank deposit book of the company, i.e., the cash receipt book showed money that had been paid to the company but these amounts did not appear in the bank deposit book. Thring, on realizing the discrepancy approached Dlamini and asked him about it. Dlamini refuted any allegations of a discrepancy and accused Thring of hatching a scheme to get him fired. Thring reported everything to his boss, the Financial Director who spoke to the Human Resources Manager and they both decided that Dlamini be suspended without pay pending an investigation into the matter. Mr. Dlamini has been on suspension since the 9<sup>th</sup> of May to date. He approaches you for advice on the legality of his suspension and the remedies that are available to him.

(25 Marks)

### **QUESTION FIVE**

PQR (Pty) Ltd is a company registered in Swaziland, engaged in motor vehicle rentals. PQR (Pty) Ltd employs a staff of 25 people. Due to the increased accessibility of cars owing to the sale of imported vehicles at low prices, there's been a slump in the car rental business. Because of this slump, the company is considering retrenching some of its staff members and has approached you for advice in that regard.

(25 Marks)

### **QUESTION SIX**

“The adoption of a constitution is an essential requirement for the registration of any organization, be that of an industry union, staff association or employers’ association.” Discuss.

(25 marks)