

**IN THE INDUSTRIAL RELATIONS COURT OF MALAWI**

**PRINCIPAL REGISTRY**

**MATTER NO. IRC 178 OF 2006**

**BETWEEN**

**MANJALIKE..... APPLICANT**

**-and-**

**CEOLH T/A SHIRE CONSTRUCTION LTD..... RESPONDENT**

**CORAM: RACHEL ZIBELU BANDA; CHAIRPERSON  
MRN PADAMBO; EMPLOYEES' PANELIST  
A MALIJANI; EMPLOYERS' PANELIST  
Chikankheni; for the Respondent  
Applicant; present  
Gowa; Official Interpreter**

**JUDGMENT**

*1. Dismissal-Reason-Misconduct-Abscondment*

**Facts**

The applicant was dismissed for abscondment. He alleged that he was sick. When asked to produce a medical report he failed to produce any to justify the more than 45 days that he was away from work. The respondent averred that the applicant had just vanished. He sent his representatives on pay day to receive salaries but he did not show up to work. He did not send any word to the respondent. The respondent concluded that this was a case of abscondment and dismissed the applicant. In court the applicant failed to justify his absenteeism. His medical book which he produced in court did not reconcile with the so many days of absenteeism that the respondent complained of. The applicant challenged the dismissal alleging that the reason was unjustified.

**The Law**

The Employment Act provides that an employer is entitled to dismiss summarily an employee guilty of habitual or substantial neglect of his duties and an employee who is guilty of absence from work without permission of the employer and without reasonable excuse, see section 59 Employment Act.

In the instant case the applicant was found guilty of absence from work without permission and without reasonable excuse. The court found as a fact that the applicant absconded from work. It has been held in this court that abscondment is a valid reason for

dismissal, see *Chaima v Gray Security Services* [Matter Number IRC 47/2002 unreported]) IRC.

**Finding**

The reason for dismissal was valid in accordance with section 59 of the Employment Act. The court therefore finds that the dismissal was fair. This action is 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.

**Made** this 28<sup>th</sup> day of May 2008 at **Blantyre**.

**Rachel Zibelu Banda**  
**CHAIRPERSON**

**Maxwell RN Padambo**  
**EMPLOYEES' PANELIST**

**A Malijani**  
**EMPLOYERS' PANELIST**