

Employment Law

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South Africa

- Cash short, excuses shorter: Employer's right to demand accountability



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Cash short, excuses shorter: Employer's right to demand accountability



The lesson

Can an employer dismiss employees for gross negligence where cash shortages arise under their watch, even if the employer cannot prove exactly how the shortages occurred? The Labour Court in *G4S Cash Solutions (Pty) Ltd v NUMSA obo Mosinyane and Others* (JR2282/22) [2026] ZALCJHB 117, handed down on 15 April 2026, answered in the affirmative, reviewing and setting aside an arbitration award that had found the dismissals to be both substantively and procedurally unfair.



Facts

G4S Cash Solutions operates in the Cash-in-Transit (CIT) industry, transporting and replenishing ATMs with cash on behalf of banking clients such as Capitec Bank. The company maintains an extensive, multi-stage chain of custody over cash, involving sealed bags, note-counting verification by sorting tellers, tamper-evident packaging, camera surveillance, and electronic tracking at every stage.

The individual respondents were employed as "custodians" - the final link in the chain of custody, solely responsible for removing cash from armoured vehicles and replenishing ATMs. During ATM replenishment, custodians work alone inside locked ATM cubicles with no camera surveillance, counting notes and loading them into ATM canisters.

Between January and June 2019, total cash shortages on the employees' dedicated routes amounted to R1,377,690.00. Notably, after the employees were removed from the routes, shortages dropped by approximately 90% to R134,270.00 in the following six-month period. The employees were charged with gross negligence, disciplined, and dismissed.

NUMSA referred an unfair dismissal dispute to the National Bargaining Council for the Road Freight and Logistics Industry. The arbitrator found the dismissals to be both substantively and procedurally unfair and ordered retrospective reinstatement with back pay. G4S then brought a review application to the Labour Court under section 145 of the Labour Relations Act (LRA).



Law

The Court confirmed the well-established review test from *Sidumo and Another v Rustenburg Platinum Mines Ltd and Others*, namely, whether the decision reached by the arbitrator is one that a reasonable decision-maker could not reach. A material error of fact or a failure to have regard to material evidence may lead to an unreasonable outcome that warrants setting aside the award. Here, the Court in *Sidumo* held that, quite simply, the task of the judge in a review application is to ensure that the decision falls within the bounds of reasonableness.

On the nature of arbitration as a hearing *de novo*, the Court emphasised that an arbitrator may consider evidence not presented at the disciplinary hearing, provided the reason for dismissal remains the same. Drawing on *EOH Abantu (Pty) Ltd v CCMA and Others* and subsequent LAC authorities, the Court reiterated that charges in disciplinary proceedings need not be formulated with the precision of a criminal indictment; it suffices that the

employee understands the substance of the allegation. The distinction between disciplinary hearings and criminal or civil trials has been settled by South African Courts numerous times, and it is now a trite legal principle that disciplinary proceedings need not mimic that of a criminal trial.

On gross negligence, the Court endorsed the standard articulated in *Transnet Ltd t/a Portnet v Owners of the MV Stella Tingas*, requiring a departure from the standard of the reasonable person to such an extent that it may be categorised as extreme - demonstrating either a complete obtuseness of mind or a total failure to take care. This is a question of the degree of the departure from the standard of reasonableness.

The Court further applied the principle from *Gauteng Department of Education v GPSSBC and Others* that where a *prima facie* case of misconduct is established by the employer, the evidentiary burden shifts to the employee to provide a reasonable and acceptable explanation.



Application of the law to the facts

The Court found that the arbitrator had committed multiple reviewable irregularities.

First, the arbitrator unduly narrowed the charges by interpreting “*account*” to mean only a duty to count and report cash, rather than the broader duty to exercise reasonable care over cash and to explain shortages. This misinterpretation led the arbitrator to exclude material evidence tendered by G4S.

Second, the arbitrator adopted a “*reasonable doubt*” approach rather than the civil standard of inherent probabilities. The Court found that, on the probabilities, the cash shortages most likely occurred while the cash was in the sole custody of the employees inside ATM cubicles, where no cameras operated and the employees alone handled the funds. The 90% reduction in shortages following the employees’ removal from the routes was a significant and compelling factor that the arbitrator irrationally disregarded.

Third, the employees failed to provide any reasonable or acceptable explanation for the shortages. Most employees did not even testify. Those who did either offered unsubstantiated explanations or simply denied accountability.

Fourth, the arbitrator’s finding of inconsistency was unsustainable. The employees failed to establish a proper like-for-like comparison between custodians and other employees in the chain of custody, whose duties, responsibilities, and working circumstances were materially different.

Finally, the finding of procedural unfairness lacked any evidential foundation. The employees fully participated in the disciplinary hearings without objection, and no prejudice was proven.

The Court exercised its powers under section 145(4) of the LRA, substituted the arbitration award, and declared the dismissals both substantively and procedurally fair, with no order as to costs.



Key takeaways

- Where an employer establishes a prima facie case that losses occurred while goods or cash were in the sole custody of employees, those employees bear the burden of providing a reasonable explanation for the shortages. A bare denial of accountability is insufficient.
- Employers are not required to draft disciplinary charges with the exactness of a criminal charge sheet. What matters is that the employee understands the substance of the allegation against them and is not materially prejudiced by any imprecision.
- In unfair dismissal arbitrations, the correct approach is to determine which outcome is the most natural, logical, and plausible inference from all the proven facts, rather than asking whether every reasonable inference has been excluded.
- Employees who raise inconsistencies must identify specific comparators and establish a genuine like-for-like comparison. Generalised allegations that all employees in a chain of custody should have been disciplined, without demonstrating comparable duties and circumstances, are insufficient.
- A finding of procedural unfairness must be supported by evidence that the employee suffered actual prejudice. Full participation in disciplinary proceedings without objection may militate against the finding of procedural unfairness.

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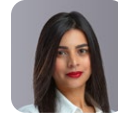
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