

## **The Arbitration Award - dated the 2<sup>nd</sup> August 2009**

On the 20<sup>th</sup> 2009 July, Laurie D Vinson testified at the CCMA as the expert witness for my client. The client had obviously dismissed the Applicant and he in turn was contesting the dismissal as unfair.

The Arbitration Award - dated the 2<sup>nd</sup> August 2009 – concludes as follows,

*The employee's case was that he does not understand polygraph tests, therefore cannot be admissible as evidence. The examination was conducted freely and voluntarily and the process was fully explained to the applicant.*

*The Applicant's argument has no basis in law. The admissibility of the evidence in this regard is not in question. The admissibility can only be in question if,*

- *The examiners qualifications are challenged, the examiner did not present oral evidence and the test was not conducted freely.*

*The above was not in dispute in this matter.*

*It is inescapable and the inference is unavoidable that the applicant must have been aware could reasonably have been suspected of dishonesty (sic)*

*The evidence of respondent by a polygraph examiner is acceptable in this regard; **See Mncube and Cash Paymaster Services (Pty) Ltd (1998) 7 CCMA 2.9.3***

*I find that the circumstantial evidence supported by polygraph examination leads to the conclusion the trust relationship has been broken down. An employment relationship should be based on trust especially in this regards it relates to loss of stock and money (sic)*

*The employer's version was more probable than that of the applicant.*

### **AWARD**

*The dismissal was both substantively and procedurally fair.*

*The matter is dismissed and no costs are ordered.*

**The case number is MP 3288-09 (Witbank). The Commissioner was Thabi Kekana.**

First off – well done Laurie! You deserve a round of applause.

This follows the same award granted to the same client of mine in December with case number **GAJB30643-08 (Johannesburg)** where I was the polygraph examiner testifying that day.