

Paying the price for unfair procedure

By [Tracy Robbins](#)

17 May 2018

The Labour Court delivered its judgment in the matter of Satawu and Others v Sihlangene Security & Cleaning CC and Another on 27 March 2018, whereby the court showed its displeasure for a complete absence of prior procedure followed when dismissing employees.



© rawpixel – [123RF.com](#)

In casu, Sihlangene Security and Cleaning CC (Sihlangene) employed the applicants as security officers. Sihlangene was contracted to provide security services to the JMPD. The applicants were employed as security officers at the JMPD's Region C in Roodepoort.

In August 2010, the JMPD terminated its contract with Sihlangene. The JMPD subsequently contracted with Enlightened Security Force (Pty) Ltd (Enlightened Security) to provide the security services.

On Monday, 31 August 2010, the applicants presented themselves for work as usual. However, they happened upon new personnel wearing security uniforms. Upon questioning, it transpired the new personnel were employees of Enlightened Security, who had taken over Sihlangene's contract with the JMPD.

The applicants were not permitted to provide their services to Sihlangene on 31 August 2010 and were effectively dismissed on that day, without receiving a written notice of termination of their employment, notice pay or severance pay.

The applicants' claims of unfair dismissal arose from, inter alia, a complete lack of procedure implemented by Sihlangene in effecting their dismissals.

The court was scornful of Sihlangene, describing its conduct towards the applicants as egregious. The court scolded Sihlangene for attempting to justify the applicants' dismissals on operational grounds but failing to follow any procedure and failing to provide notice of its intention to terminate the employees' services.

The court awarded each employee the maximum award of 12 months' compensation and, as another blow to Sihlangene, awarded costs as well.

This judgment offers a stern reminder to employers to ensure that dismissals are effected not only for a fair reason, but also in accordance with a fair procedure. Failure to do so may result in a hefty compensation award coupled with a cost order.

ABOUT THE AUTHOR

Tracy Robbins is an associate in the Employment and Compensation Practice at Baker McKenzie Johannesburg.

For more, visit: <https://www.bizcommunity.com>