

**LIBERIA TRACTOR AND EQUIPMENT CORPORATION (LIBTRACO),**  
by and thru its General Manager, Appellant, v. **CATHERINE SONPON,** Appellee.  
APPEAL FROM THE CIRCUIT COURT FOR THE SIXTH JUDICIAL CIRCUIT,  
MONTSERRADO COUNTY.

Heard: May 1, 5 & 6, 1986. Decided: May 30, 1986.

1. The Circuit Court does not have jurisdiction to hear a petition for enforcement of judgment on a matter still pending before the Board of General Appeals.

2. When the Board of General Appeals renders a decision in a matter and the aggrieved party files a motion for reconsideration before the Board, the jurisdiction effectively remains with the Board and the Circuit Court cannot assume jurisdiction by the mere filing of a petition by one of the parties.

3. Section 5 of the Liberian Labor Law makes it mandatory on the Board to notify the parties that it has before it a motion for reconsideration of its decision in the absence of notice served by one of the parties..

4. It is the Board, and not the party, that has the duty to signify to the parties that the Board's decision will be reconsidered.

On June 7, 1985, the Board of General Appeals affirmed the ruling of a hearing officer in favor of plaintiff in an action of wrongful dismissal. The defendant corporation excepted to the ruling and announced an appeal to the Circuit Court for the Sixth Judicial Circuit, Montserrado County. Rather than perfecting its appeal, the defendant on June 13, 1985, filed a motion with the Board for reconsideration of its decision.

On June 28, 1985, upon ascertaining that no steps had been taken by the defendant to perfect its appeal, and being unaware that a motion for reconsideration was pending before the Board, plaintiff petitioned the Circuit Court for enforcement of the Board's decision. In its returns, the defendant indicated that it had a motion for

reconsideration pending before the Board on this same matter. The trial judge, nonetheless, assigned the petition for hearing on August 5, 1985, conducted the hearing thereon, and ordered enforcement of the Board's decision.

Whereupon, defendant excepted and announced an appeal to the Supreme Court.

The Supreme Court had to decide whether or not the Circuit Court had jurisdiction to entertain the petition-for enforcement since defendant's motion for reconsideration was then pending before the Board.

First, the Supreme Court observed that the Board should have notified the plaintiff/appellee that the motion for reconsideration was pending, but it had failed to do so. Second, the court observed that the circuit court judge had notice, from the defendant/ respondent's returns, that the matter was still before the Board at the time the petition for enforcement was heard. In consequence thereof, the Supreme Court *reversed and remanded* the case.

*B. Mulbah Togba* and *E. Wilfred Smallwood* of Cooper and Togba Law Firm appeared for appellant. Johnnie N. Lewis of Lewis & Lewis Law Firm appeared for appellee.

MR. JUSTICE TULAY delivered the opinion of the Court.

Appellee was for sometime an employee of the appellant corporation but due to alleged insubordination and frequent absences from work, she was dismissed.

Considering her dismissal wrongful, she filed a complaint with the Ministry of Labour where the hearing officer ruled against the appellant corporation, ordering reinstatement or payment of \$11,664.00, representing two years salary at the rate of \$466.00 a month. Appellant appealed from this ruling and the case went before the Board of General Appeals. The Board affirmed the hearing officer's ruling, to which appellant excepted and announced an appeal to the Sixth Judicial Circuit on the 7th June, 1985.

Receiving no further information on the appeal, and having obtained a clerk's certificate that there was no petition before the Board, counsel for appellee filed a petition before the Sixth Judicial Circuit on the 28th of June, twenty days after the decision was given. He prayed for the enforcement of the Board's decision as appellant had failed to seek judicial review within the statutory time.

Appellant's counsel filed a two-count returns on July 4, 1985, with which he proferted three documents: copy of his motion for reconsideration of the decision, the clerk's certificate that the matter was still pending before the Board, and the notice of assignment commanding the parties to appear before the Board on the 4th of July at 10:00 a.m. for hearing of the appellant's motion for reconsideration of its decision.

We have quoted below both the notice of assignment and the clerk's certificate referred to above:

"NOTICE OF ASSIGNMENT REPUBLIC OF LIBERIA: To James Flomo, sheriff of the Board of General Appeals, Ministry of Labour: GREETINGS:

YOU ARE HEREBY COMMANDED TO Notify the parties in the above entitled cause to appear before the Board of General Appeals, Ministry of Labour, Monrovia, Liberia, at the hour of 10:00 o'clock in the morning on the 4th day of July A. D. 1985 at the Ministry of Labour, in the City of Monrovia, Liberia, for the above entitled cause, that is to say: FOR RE-CONSIDERATION OF THE BOARD'S DECISION.

YOU ARE HEREBY FURTHER COMMANDED to have your official returns endorse on the back thereof as to the manner of service.

AND FOR SO DOING THIS SHALL CONSTITUTE YOUR LEGAL AUTHORITY. Given under my hand and seal of this Honorable Board, this 1st day of July A. D. 1985,

Richard Saah CLERK, BOARD OF GENERAL APPEALS

MINISTRY OF LABOUR ILLEGIBLE APPELLANT/PETITIONER(S)  
ILLEGIBLE APPELLEE/RESPONDENT(S)

"THE BOARD OF GENERAL APPEALS CERTIFICATE

This is to certify that the case, The Management of Liberia Tractor & Equipment Company, appellant/petitioner versus Catharine Sonpon, appellee/respondent, action of wrongful dismissal, is pending before the Board of General Appeals for reconsideration, upon the request of counsel for appellant/petitioner, Libtraco.

Hence this certificate is hereby issued this 3rd day of July, A.D. 1985.

SIGNED: Richard Saah

CLERK BOARD OF GENERAL APPEALS"

On the 5th of August 1985, exactly thirty days after the filing of appellant's returns, the trial court called the case for trial, entertained arguments, and entered judgment for appellee, affirming the Board's decision.

Appellant appealed from this judgment and has brought the case up on a five-count bill of exceptions for our review, but counsels centered their arguments on one issue: whether or not the trial court had acquired jurisdiction over the cause at the time it entered the judgment brought up here on appeal. Part of appellee's brief reads thus .  
" and notwithstanding the Board has not signified it would reconsider its decision - the matter is still pending before the Board. There lies the issue for determination by this court." The fate of this case, therefore, hinges on this issue alone. Was the case still pending before the Board of General Appeals because of appellant's motion filed before it for reconsideration of its decision?

The Board gave its decision on the 7th of June and appellant filed the motion for reconsideration on the 13 th of June, six days after the decision was given and four days before the expiration of the statutory time within which to complete the appeal. The filing date of the motion has not been challenged by appellee although she contended she did not receive the notice of assignment from the Board.

Section (5) of the Labor Laws makes it mandatory on the Board to signify to the parties that it would reconsider its decision but it failed to give this signal within and even after the statutory time. What negligence!

It was after appellee had filed the petition before the trial court for enforcement of the Board's decision, and appellant had been summoned to appear and answer on or before the 8<sup>th</sup> of July, that the clerk of the Board issued the notice of assignment, dated July 1. In addition to notifying the parties to appear before the Board on the 8<sup>th</sup> of July for a hearing on appellant's motion for reconsideration, the notice was accompanied by the clerk's certificate, dated July 3, 1985, indicating that the cause was still pending before the Board for reconsideration of the decision.

Before the call of the appellee's petition for enforcement of the Board's decision, appellant's returns with its proferts, were on file before the trial court. Appellant therefore contended that the trial court had not acquired jurisdiction over the cause when it rendered judgment against appellant. Appellee on her part argued that since appellant did not seek judicial review within the statutory time, the Board of General Appeals had lost jurisdiction over the cause and, as a consequence, could not reconsider its decision. Therefore the judgment appealed from is valid and should be affirmed.

We are inclined to believe that the trial judge never read appellant's returns to the petition filed by appellee for enforcement of the Board's decision or if he did, then it was done in a cursory manner since in the returns notice was given him that the Board had not lost jurisdiction over the cause. Moreover, had the judge read the returns, he would have realized that it was necessary to request some information from the Board, and by so doing he would have realized that jurisdiction, as between the Board of Appeals and the trial court, was in issue and had to be disposed of.

We hold that the law, section (5) of the Labor Laws of Liberia, relied upon by appellee, only obtains in the absence of notice that the cause is still pending before

the Board. We also refuse to hold appellant responsible, though somewhat culpable for dereliction by the Board since the law places the duty upon the Board to signify to the parties that it will reconsider its decision.

With the above observations, we reverse the judgment appealed from and remand the cause with instruction to the Board to pass upon appellant's motion for reconsideration pending before it. Costs to abide final determination. And we so hold.

*Judgment reversed*