



## LESOTHO ELECTRICITY AND WATER AUTHORITY

### **DECISION OF LESOTHO ELECTRICITY AND WATER AUTHORITY (LEWA) BOARD ON THE COMPLAINT BY MOSES RANTŠELI AGAINST WATER AND SEWERAGE COMPANY (WASCO)**

#### **1. INTRODUCTION**

Mr. Moses Rantšeli (Herein referred to as 'the Complainant') is a Mosotho male residing at Mohalalito, house number 110, in the district of Maseru.

Water and Sewerage Company- WASCO (Herein referred to as 'the Licensee') is a duly registered company undertaking Water and Sewerage services in the urban centres in Lesotho under Lesotho Electricity and Water Authority Composite Licence.

#### **2. BRIEF FACTS**

The Complainant's mother, the deceased Mrs. 'Mantšeli Rantšeli, owned a house at Mohalalito in Maseru district. After Mrs. 'Mantšeli Rantšeli's death, the Complainant, as the son of the deceased inherited the premises (property), which was subsequently sub-leased to the then Member of Parliament Mr. Phoka Rantšeli. It was during the period of the sub-lease agreement entered into between the Complainant and the late Mr. Phoka Rantšeli that WASCO disconnected water supply on the premises on non-payment of water bills. Furthermore, the sub-lease agreement between the Complainant and the then tenant was terminated by the Complainant on account of non-payment of the rental fees by the tenant.

Later on, WASCO discovered that the illegal reconnection to water supply had taken place at that premises. WASCO notified the Complainant that the utility would impose a penalty of M5, 000.00 and average billing of water consumption since the time of illegal reconnection in the amount of M12, 484.24. The Complainant approached the then Water and Sewerage Authority (WASA), now WASCO, to address the complaint and requested reconnection of water services to the premises. WASCO advised the Complainant to pay the imposed penalty so that water supply could be reconnected. WASCO further advised him that, since the illegal reconnection had been done to premises which he owned, the Complainant was liable to the imposed penalty imposed and the entire costs incidental to that illegal reconnection.

The Complainant exhausted the complaint with WASCO but the Complainant remained unhappy with the response from WASCO.

Mr. Rantšeli approached the Authority and complained that WASCO had imposed on him the penalty for the illegal reconnection and average billing of water consumed during the illegal connection, whereas the illegal reconnection and the water consumed were not caused or perpetrated by him but a former tenant of his. Therefore, the Complainant sought to be refunded his money he had paid for the said illegal reconnection and water consumed, so that WASCO may pursue and reclaim its money from the alleged wrongdoer (Mr. Phoka Rantšeli).

### **3. MANAGEMENT 'S FINDINGS**

In compliance with the Act and Lesotho Electricity and Water Authority (Resolution of Complaints for Water and Sewerage Services) Rules, 2013, Management investigated the complaint and found that the Complainant had sub-leased the premises in issue to the late then Member of Parliament Mr. Phoka Paul Rantšeli at the time the illegal reconnection occurred, and the latter's stay was terminated on account of non-payment of sub-lease fees. Management found further that all the facts within the complaint were not questioned, what

remained was whether LEWA could entertain the complaint in issue. It must be stated that the Complainant was seeking refund of his money he had paid for the illegal reconnection and consumption of water which occurred during the sub-lease agreement, so that WASCO may pursue the amounts imposed for illegal reconnection and water consumed during illegal reconnection from the then tenant's family.

It was further established that the Complainant had paid the amounts imposed as the person mostly affected by the disconnection on the property since he needed water services to be restored on that premises.

In compliance with the Act and the Lesotho Electricity and Water Authority (Resolution of Complaints for Water and Sewerages Services) Rules, 2013, Rule 4, in order for the complaint to be entertained by the Authority it must first be eligible, in that the complaint must be within the provisions of the Act, licence, relevant rules and regulations and other regulatory instruments. Management found the complaint to be not eligible in that, the complaint was not compliant with Rule 4.

In essence, the Complainant pursued his interest in a wrong direction, in that he had incurred the expenses as a result of his tenant, but requested refund from WASCO instead of seeking the same from the tenant's family. Management resolved that WASCO was entitled to recover moneys for the illegal reconnection and average billing of water consumed during the illegal reconnection from any person who would feel mostly affected by the disconnection.

The Complainant was advised of the Management conclusion and the right to lodge an appeal to the Board if unhappy with the Management's findings. The Complainant filed an appeal against Management's findings, but there were no reasons advanced for the appeal, except to strongly reiterate that WASCO should have pursued the then tenant and its employee for the illegal reconnection. The matter was therefore referred to the Board for final determination.

#### **4. BOARD'S CONSIDERATION AND FINDINGS**

The Board found that the Complainant sought a delictual claim against WASCO through the Authority which was not within LEWA's mandate, in that the Complainant had no interest that had been infringed by WASCO as to the terms and conditions and price of supply or any other mandate expressed in the regulatory instruments with the Authority's regulatory frameworks.

It was also resolved that since the Complainant was established to be the rightful owner of the property, the principle pronounced by the Court of Appeal in **Tholoana Motšoene v. LEC C of A (CIV) No.27 of 1996**, that the person mostly affected by the disconnection should remedy the situation, should be invoked in the Complainant's matter. In that, though, the Tholoana's case was in relation to electricity, the facts were very identical to the complaint at hand. Therefore, no injustice had occurred and as such the complaint be dismissed.

#### **5. CONCLUSION**

Based on the above findings, the Board resolved that the complaint was wanting and therefore be dismissed.

Consequently, the Complaint was dismissed and the Licensee was entitled to recover the money from the Complainant for the illegal reconnection and consumption of water which occurred at the Complainant's house.

Lastly, the Board decided that, WASCO be advised to continuously educate its customers especially the landlords on the liability of illegal connection or reconnection and incidental matters thereto.