

THE LABOUR COURT OF SOUTH AFRICA, JOHANNESBURG

Not Reportable

Case no: J 468/2020

In the matter between:

THE LAKES HOTEL AND CONFERENCE (PTY) LTD

Applicant

and

**COMMISSION FOR CONCILIATION, MEDIATION
AND ARBITRATION (CCMA)**

First Respondent

AUBREY MOTEKANG MOKOENA N.O

Second Respondent

MATEBESE MATHEWS DIKGALE
Respondent

Third

THE SHERRIF BENONI

Fourth Respondent

Decided: In Chambers

Delivered: 27 March 2024

This judgment was handed down electronically by circulation to the parties' representatives by email. The date for hand-down is deemed to be on 27 March 2024

JUDGMENT: APPLICATION FOR LEAVE TO APPEAL

PRINSLOO, J

[1] On 19 December 2023 this Court issued an order staying the writ of execution obtained by the Third Respondent (Respondent) on 22 March 2022 and

suspending the enforcement of the arbitration award, pending the outcome of the review application filed under case number JR 355/22.

- [2] The Respondent subsequently requested written reasons for the order, which reasons were provided on 7 February 2024.
- [3] Rule 30(3) of the Rules of the Labour Court (the Rules) provides that an application for leave to appeal is to be made within 10 days after the date on which reasons are given. *In casu* the reasons were given on 7 February 2024 and the prescribed 10 days to file an application for leave to appeal expired on 21 February 2024. The Respondent filed his submissions in terms of Rule 30(3A) on 13 March 2024.
- [4] I have considered the grounds for appeal and the submissions made in support thereof and I do not intend to repeat those herein.

The test for leave to appeal

- [5] It is trite that there is no automatic right of appeal against a judgment of the Labour Court. This much is clear from section 166(1) of the Labour Relations Act¹ (LRA) which provides that any party to any proceedings before the Labour Court may apply for leave to appeal to the Labour Appeal Court against any final judgment or final order of the Labour Court. In order to be entitled to leave to appeal, an applicant in an application for leave to appeal must satisfy this Court that there is a reasonable prospect that another court could come to a different conclusion².
- [6] Section 166(1) of the LRA makes it clear that only a final judgment or order is appealable.
- [7] *In casu* an interim order was issued, which merely stayed execution pending the finalisation of a pending review application. Neither the merits of the review application nor any of the Respondent's submissions regarding the status of the review application were not finally decided and no final judgment or order

¹ No. 66 of 1995, as amended.

² See: *Woolworths Ltd v Matthews* [1999] 3 BLLR 288 (LC).

was granted. As a result, the provisions of section 166(1) do not apply and the order granted is not appealable.

[8] In the premises, the following order is made:

Order

1. The application for leave to appeal is dismissed.

Connie Prinsloo

Judge of the Labour Court of South Africa