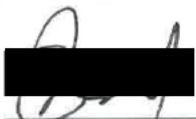




**IN THE HIGH COURT OF SOUTH AFRICA
GAUTENG LOCAL DIVISION, JOHANNESBURG**

CASE NO: 2024-093967

(1)	REPORTABLE: No
(2)	OF INTEREST TO OTHER JUDGES: No
(3)	REVISED.
16/09/2024	
DATE	 SIGNATURE

In the matter between:

BRAMGAR INVESTMENTS (PTY) LTD

Applicant

And

THE CITY OF JOHANNESBURG

First Respondent

METROPOLITAN MUNICIPALITY

CITY POWER JOHANNESBURG (SOC) LIMITED

Second Respondent

JUDGMENT

MAHOMED AJ

- [1] This is an urgent application, to interdict the respondent from disconnecting the electricity supply to the applicant's shopping mall, pending the resolution of the dispute it has raised regarding its account. Advocate Paige-Green submitted that the respondent has charged the applicant all along on the highest tariff, which is unreasonable and does not make sense, given that there are certain non-peak times when its consumption must vary to be charged at a lower tariff. The applicant also prays for order reversing charges, for a delivery of a statement of account and for a demonstration of adjustments made to the account.
- [2] Counsel in reply to the court's question on urgency explained that his client's electricity connection was recently disconnected and was reconnected in April 2024. It has since declared a dispute, in terms of the respondent's internal policy and procedures, however his client has again received a demand from an attorney and the applicant fears that its power supply will be disconnected again, therefore it has approached the urgent court for relief. Counsel proffered that the respondent is of the view that the parties do not have a dispute, the amounts claimed are due and payable. Counsel contended that the applicant raised its dispute about a year ago and the respondent has failed, to act within any reasonable time, as per its policy guidelines to review and amend the account. The applicant "anticipates," based on the respondent's past conduct, another disconnection.
- [3] Advocate Sithole appeared for the respondent and denied that there is any dispute and argued that the matter is not urgent, and the applicant has failed to explain why it cannot obtain the interdict it seeks, at a hearing in due course. It has failed to provide a reasonable explanation as to the harm it will suffer. On its version it has received a letter of demand, it must engage with the attorneys who sent the letter and resolve its matter.
- [4] Furthermore, it was argued that the city has a public duty, it cannot be interdicted in perpetuity each time an account is queried. Mr Sithole argued that the applicant ignored the provisions of the rule in that his client was placed on a days' notice to respond,

despite it having all facts available to it well ahead to time and it could have approached the court earlier in this regard.

URGENCY

- [5] The application is not urgent – on its version the applicant is concerned for “a disconnection in the future. The test is whether the harm or threat is imminent, and the applicant will not enjoy redress in the week if an order is not granted.
- [6] This application is dismissed for lack of urgency.
- [7] The respondent, a municipality was summoned to court on short notice, I gained the impression that the applicant did not want to allow for an opposition to the matter. The relaxation of the timelines must be according to the exigencies of the matter. I am of the view that the applicant has failed to observe the provisions of the rule and the long line of judgments on this very point and that costs on a punitive scale are appropriate.
- [8] Accordingly, I make the following order:
1. The application is struck from the roll for lack of urgency.
 2. The applicant shall pay the respondents costs on an attorney client scale.



S MAHOMED
ACTING JUDGE OF THE HIGH COURT

Delivered: *This judgment was prepared and authored by the Judge whose name is reflected and is handed down electronically by circulation to the parties/their legal representatives by e-mail and by uploading it to the electronic file of this matter on Caselines. The date and for hand-down is deemed to be 16 September 2024.*

Date of Hearing: 27 August 2024
Date of Judgment: 16 September 2024

Appearances:

For Applicant: Advocate T. Paige-Green
Instructed by Boruchowitz Attorneys
Email: gary@boruchowitzattorneys.co.za
For Respondent: Advocate E. Sithole
Instructed by: Kunene Ramapala Inc
Email: lifa@kr-inc.co.za