

IN THE LABOUR COURT OF SOUTH AFRICA

HELD AT CAPE TOWN

CASE NO:C400/06

In the matter between:

CADEMA INDUSTRIES (PTY) LTD

APPLICANT

and

C DE KOCK NO

1<sup>ST</sup> RESPONDENT

SOUTHERN AFRICAN CLOTHING AND TEXTILE

WORKERS UNION

2<sup>ND</sup> RESPONDENT

NATIONAL BARGAINING COUNCIL FOR THE

CLOTHING MANUFACTURING INDUSTRY

(WESTERN CAPE SUB-CHAMBER)

3<sup>RD</sup> RESPONDENT

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REASONS FOR ORDER GRANTED ON 15/02/07

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PILLAY D, J

The award was reviewed and set aside because the arbitrator found that the applicant, Cadema Industries (Pty) Ltd, failed to consult the second respondent, the Southern African Clothing and

Textile Workers Union (SACTWU) at the earliest opportunity for meaningful consensus-seeking consultation about the short time imposed on 14<sup>th</sup> and 15<sup>th</sup> December 2005 and 23<sup>rd</sup> and 24<sup>th</sup> January 2006. In so doing the arbitrator disregarded the definition of “short time” and the short time provisions in clause 12.4 of the Main Agreement. The Main Agreement requires an employer to issue one day’s notice for short time. Given the purpose of short time and the short notice periods, the standard of consultation that precedes short time is not as extensive as that prescribed for retrenchment.

On the facts, the parties did consult via correspondence. A more protracted consultation would have defeated the purpose of the short time. With regard to his ruling pertaining to the January 2006, short time the arbitrator had no jurisdiction as no dispute had been referred to the 3<sup>rd</sup> Respondent bargaining council.

DATED AT DURBAN ON 25 DECEMBER 2007-12-25

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PILLAY D, J