

**THE LABOUR COURT OF SOUTH AFRICA
(HELD AT JOHANNESBURG)**

CASE NO: J 2416/08

In the matter between:

**THE COMMISSION FOR CONCILIATION
MEDIATION AND ARBITRATION**

Applicant

and

**LENTEKILE PATRIC PELELE
TSWAING LOCAL MUNICIPALITY**

1ST Respondent

2ND Respondent

EX TEMPORE JUDGMENT

MOROKA A J

- [1] In this matter, the parties have agreed that the matter be postponed. The only issue before me is whether or not I should make a costs order.
- [2] The applicant applied for a postponement. The first respondent that does not agree to the postponement, but has no objection to the postponement. On 25 November 2009 and in chambers, my brother Molahlehi J made an order giving the respondent an opportunity, if he so wished, to file papers by 9 December 2009. the heads were to be filed on 20 January 2010. the matter was then postponed to 22 January 2010.
- [3] I have not had an opportunity to read the entire file, but I have had an opportunity to peruse the draft order, to peruse the affidavit filed today, 22 January 2010, and to peruse the application for rescission filed by the applicant. I am of the view that indeed had the first respondent sought to

file affidavit, he should have done so within the time limits prescribed by my brother Molahlehi J. I do not understand the argument that this application has been filed prematurely (because there is no application for condonation or that the condonation application has still not been moved and there is no prayer for condonation by the applicant in its notice of motion) and that therefore, as a point *in limine*, there is no valid application for condonation filed with the Court. I find that the respondent has not been diligent in his prosecution or opposition of this matter. He should have filed his papers on time, he should have complied with the directives set by my brother Molahlehi J. I therefore find that it is fair and appropriate to make an order against the first respondent.

I therefore make the following order:

1. the matter is postponed *sine die*.
2. costs are granted against the first respondent on an attorney and own client basis.

KGOMOTSO MOROKA

ACTING JUDGE OF THE LABOUR COURT

Date of hearing : 22 January 2010.

Date of Judgment: 22 January 2010

Appearances:

For the applicant : Mr. D Hochstrasser from Bowman Gilfillan Inc.

For the first respondent: Mr. Scholtz from Jansens Incorporated