

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

CASE NO: JR 1016/10

NOT REPORTABLE

In the matter between:

XOLANE ELLIOT MOFOKENG

Applicant

And

**METAL AND ENGINEERING INDUSTRIES
BARGAINING COUNCIL**

First Respondent

COMMISSIONER DAISY MANZANA

Second Respondent

HAWKER SIDDLEY TRANSFORMERS

Third Respondent

JUDGMENT

MASHER AJ:

1. This is a review application in terms of S158 (1) (g) of the Labour Relations Act to review and set aside the condonation ruling of Commissioner D. Manzana the Second Respondent dated 10 March 2010.
2. The applicant was dismissed by the third respondent on 24 August 2010. The applicant referred an unfair dismissal dispute to the Metal and Engineering Industries Bargaining Council on 5 February 2010.

2.1.1.1

3. The applicant applied for condonation for the late referral.
4. In considering the application for condonation, the second respondent considered all the factors she is required to have considered viz degree of lateness, the reasons for the lateness, prospects of success and prejudice to the parties.
5. It is also clear from the papers that the second respondent applied her mind to all the facts placed before her by the applicant in support of his condonation application.
6. The applicant has not set out any grounds of review in his papers. The case made out in the papers by the applicant is more akin to an appeal. The applicant having set out the facts leading up to his dismissal and the criminal trial that followed which concluded with his acquittal.
7. With the applicant being a lay person and unrepresented, it is understandable that his papers do not set out any grounds for review.
8. What is clear from the applicant's papers is that he does not take issue with the manner in which the second respondent conducted the proceedings. The applicant's case is simply that he did not know that he was required to refer his dispute to the Bargaining Council within 30 days of his dismissal, and that he was waiting to complete the criminal matter before he dealt with his unfair dismissal.
9. I cannot find any reason to interfere with the condonation ruling of the second respondent. I can find no basis for any of the grounds of review

2.1.1.1

recognised in terms of the Labour Relations Act to apply in this matter.

In addition, it is my view that the decision of the second respondent to dismiss the condonation application is not a decision that a reasonable decision maker could not come to.

10. In the circumstances I make the following order:

(a) The review application is dismissed.

(b) No order as to costs.

D. MASHER

Acting Judge of the Labour Court

19 July 2011