



REPUBLIC OF SOUTH AFRICA

Not reportable

**THE LABOUR COURT OF SOUTH AFRICA,
IN JOHANNESBURG
JUDGMENT**

Case no: JS 303/2011

In the matter between:

**SOUTH AFRICAN TRANSPORT AND
ALLIED WORKERS UNION**

Applicant

MOTINGOE AND 29 OTHERS

**Second and Further
Applicants**

and

**G DE BRUIN AND IG VAN
JAARSVELD T/A PRESSED IN TIME
LAUNDRY**

Respondent

Heard: 05 September 2012

Delivered: 21 May 2013

Summary: (Default judgment – unfair retrenchment)

JUDGMENT

LAGRANGE, J

Introduction

- [1] The second and further applicants in this matter were employed by the joint owners of a bed business trading as Pressed in Time Laundry until they were summarily retrenched 30 June 2009.
- [2] The applicants only filed their statement of case on 10 May 2011, whereas they ought to have done so by 23rd of August 2010. Consequently, they filed their statement of case just over eight months late which is a considerable delay. The applicants seek condonation for the late filing of their statement of case, which is unopposed, as is their application for default judgement.
- [3] The applicants' late filing of the statement of claim was condoned by the honourable Van Niekerk, J on 9 February 2012.
- [4] The retrenchment occurred without warning on 30 June 2009 and on the applicants' version without any consultation being taken prior to the decision to close the business on the same day. The owners state in a termination letter that they were closing the business because they were unable to run it profitably, though there was no evidence of an operational justification before the court and the dismissals appear to have followed an altercation between employees and management..
- [5] No consultation as envisaged in section 189 of the Labour Relations Act 66 of 1995 ('the LRA') took place, nor was there any advance warning of the individual applicants' retrenchment. Therefore, the applicants' retrenchment was undoubtedly procedurally unfair, and sometime compensation should be paid to them for this. According to the letter of termination of the applicants would only receive an amount equal to half their June salary in addition to the June salary owing to them.

Order

[6] In light of the above:

- 6.1 The dismissal of the second and further applicants by the joint owners of the respondent, G De Bruin and IG Van Jaarsveld, on 30 June 2009 was procedurally and substantively unfair.
- 6.2 G De Bruin and IG Van Jaarsveld trading as Pressed in Time Laundry are jointly and severally liable to pay compensation equivalent to seven (7) months remuneration to each of the second to further applicants, as set out in Table A, which payment must be made within 30 days of receipt of this judgement.
- 6.3 G De Bruin and IG Van Jaarsveld trading as Pressed in Time Laundry are jointly and severally liable to pay the second to further applicants' severance pay in the amounts, as set out in Table A attached to this order, within 30 days of receipt of this judgement.
- 6.4 G De Bruin and IG Van Jaarsveld trading as Pressed in Time Laundry are jointly and severally liable to pay the applicants' costs, the one paying the other to be absolved.



R LAGRANGE, J
Judge of the Labour Court of South Africa

APPEARANCES

APPLICANT: Ms N Hanif of Mitti Attorneys

RESPONDENT: No appearance

NO	NAME	POSITION	Date of Employment	SALARY	Computation of salary	Severance pay	Total
1.	MAKOBALO K L	General Worker	18/4/2002	1200	8400	2100	10 500
2.	SENYANE V	General Worker	1/3/2006	1200	8400	900	9300
3.	MOLETSE S	General Worker	4/8/2005	1500	10 500	1500	12000
4.	MOLETSE R	General Worker	16/4/2007	1000	7000	500	7500
5.	BOB . L	General Worker	2/2/2007	1000	7000	500	7500
6.	CHABANE R	General Worker	11/10/2006	950	6650	712	7362
7.	DIPHOLO .E	General Worker	10/1/2007	1000	7000	500	7500
8.	FINGER B	General Worker	1/11/2004	700	4900	875	5775
9.	KHASEMENE T	General Worker	1/12/2004	1200	8400	1500	9900
10.	LESEA E	General Worker	3/10/2007	900	6300	450	6750
11.	LETSABA J	General Worker	14/9/2007	900	6300	450	6750
12.	DUBE E	General Worker	3/10/2007	900	6300	450	9750
13.	MAYEKISO E	General Worker	4/3/2005	1000	7000	1000	8000

14.	MEKO E	General Worker	10/1/2007	1100	7700	550	8250
15.	MOKHESANG E	General Worker	14/9/2005	1000	7000	1000	8000
16.	MODISE A	General Worker	15/1/2007	900	6300	450	6750
17.	NXHOSANA S	General Worker	28/2/2008	900	6300	225	6525
18.	MOTSELAMADI M	General Worker	16/5/2005	800	5600	800	6400
19.	PHAMO L	General Worker	10/2/2006	900	6300	675	6975
20.	SEKATI P	General Worker	5/5/2005	1000	7000	1000	8000
21.	MPEOA S	General Worker	15/10/2008	800	5600	200	5800
22.	NKETSI M	General Worker	14/6/2008	1000	7000	250	7250
23.	SEKONYELA J	General Worker	10/1/2007	1000	7000	500	7500
24.	TITI M	General Worker	7/3/2007	800	5600	400	6000
25.	LUTLO C	General Worker	13/9/2007	900	6300	450	6750
26.	MOTINGOE J	Driver	10/9/2005	3301	23 107	3301	26 408

27.	MOTINGOE B	Supervisor	1/6/2004	5126	35 882	6407.50	42 289.50
28.	BIKWANE N	Driver	1/3/2006	3461	24 227	2595.75	26 822.75
29.	BEN	Driver	10/1/2007	2420	16 940	1210	17 700
30.	MOKEKI F	General Worker	1/6/2008	1000	7000	250	7250

GRAND TOTAL R313 257.25