



REPUBLIC OF SOUTH AFRICA

of interest to other judges

**IN THE LABOUR COURT OF SOUTH AFRICA
(HELD IN JOHANNESBURG)
JUDGMENT**

CASE NO: J 271/2014

In the matter between:

**NATIONAL UNION OF METAL WORKERS
OF SOUTH AFRICA OBO MEMBERS**

APPLICANT

and

MOTHEO STEEL ENGINEERING

RESPONDENT

Heard: 07 February 2014

Delivered: 07 February 2014

Summary: (urgent application-applicability of s133 (1) (a) of the Companies Act - s 189A of the LRA)

JUDGMENT

LAGRANGE, J

[1] In terms of s 210 of the Labour Relations Act, 66 of 1995 a matter dealt with in that Act prevails over the provisions of any other law save the Constitution or any Act expressly amending it. I am satisfied that s 133(1) of the Companies Act 71 of 2008 does not expressly amend the provisions of the LRA, and insofar as it might otherwise prevent legal proceedings without the leave of a court or the relevant business rescue partner, it does not prevent the applicant bringing this application.

[2] Nonetheless, the business rescue partner should be cited as a respondent.

[3] As the applicant could not have known about the status of the respondent when it launched these proceedings, the following order is made:

3.1 The matter is postponed to 13 February 2014.

3.2 The applicant must file an amended notice of motion on the respondent and the business rescue partner of the respondent, together with a copy of the application and this order on the business rescue partner.

3.3 The respondents must file any opposing affidavits by 16h00 on 11 February 2014 and the applicant must file any replying affidavit by 16h00 on 12 February 2014.

3.4 No order is made as to costs.



R LAGRANGE, J

Judge of the Labour Court of South Africa

APPEARANCES

APPLICANT: T. Manasoe of Numsa

FIRST RESPONDENT: R. Grundlineh instructed by Nothnagel Attorneys

LABOUR COURT