

IN THE LABOUR COURT OF SOUTH AFRICA

HELD AT BRAAMFONTEIN

CASE NO: J349/15

DATE: 2015-02-25

In the matter between

WORKERS CONSULTATIVE FORUM

(WECOFO)

Applicant

and

HENDRIK BADENHORST
HB MANAGEMENT SERVICES

1st Respondent
2nd Respondent

JUDGMENT

STEENKAMP J:

This application is brought to court purportedly by the Workers Consultative Forum or WOCOFO on an urgent basis. The application was only delivered on the 20th of February, that is on Friday, to be heard today; Tuesday, the 25th of February 2011.

The deponent to the founding affidavit who appeared in court today, Mr Lesiba David Masalesa, purports to be a union official. Nowhere in the founding papers does he set out on what basis he is purporting to act on behalf of the union. Mr *Crause*, for the respondents,
10 pointed out that the union has been registered since the 11th of March 2013 and that its general secretary is not Mr Masalesa but indeed the first

respondent, Mr Hendrik Badenhorst, according to the registration documents.

However, as long as six weeks ago, the 12th of January 2015, the union purportedly dismissed Mr Badenhorst. In his notice of motion the union asks this court to order Badenhorst and an entity called HB Management Services 'to forthwith comply with the dismissal of the first respondent handed down on 12 January 2015.' It is not clear to the court on what basis it has jurisdiction to make such an order. Be that as it may, despite the apparent difficulties with *locus standi* and jurisdiction that the
10 applicant faces, the first preliminary point raised by Mr Crause is that of urgency.

Badenhorst was purportedly dismissed on the 12th of January 2015. The applicant only brought this application, whatever its merits, on the 25th of February 2015, some six weeks later. It did so on two working days' notice. It has not set out any proper grounds for urgency and it has not explained in its founding affidavit why it cannot pursue the alternative remedies to its disposal, both in terms of its own constitution and in regard to the powers of the Department of Labour. The application was ill-conceived. It is struck from the roll for lack of urgency. The applicant is
20 ordered to pay the respondent's costs.

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For Applicant: Mr L B Masalesa
For Respondent: Adv J Crause, instructed by Malan Hitge.
Date of Hearing: 2015-02-25
Date of Judgment: 2015-02-25

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