

IN THE LABOUR COURT OF SOUTH AFRICA

HELD AT BRAAMFONTEIN

CASE NO: J395/15

DATE: 2015-02-26

In the matter between

NE KABE

Applicant

And

CHIBA ATTORNEYS

Respondent

JUDGMENT

STEENKAMP J:

The applicant in this matter, Ms Nkgadimeng Eugenia Kabe, seeks relief on an urgent basis against her employer, Chiba Attorneys, staying a disciplinary hearing originally set down for hearing today that has been postponed until tomorrow, pending the findings of the Law Society of the Northern Province into certain allegations between her and her employer.

She was given notice of the disciplinary hearing on the 24th of February 2015 to commence today. And as I have said, that has now been postponed until tomorrow. I accept that the application is urgent.

The requirements for urgent interim relief has been reiterated many times. This court recently dealt with those requirements in the

context of the stay of a disciplinary hearing in *Golding v HCI Managerial Services (Pty) Ltd* [2015] 1 BLLR 91 (LC). The requirements are well-known. If one accepts that this is an application for interim relief pending the findings of the Law Society they are those set out in *Webster v Mitchell* 1948 (1) SA 1186 (W) and in *Setlogelo v Setlogelo* 1914 AD 221, recently confirmed by the Constitutional Court in *National Treasury and Others v Opposition to Urban Tolling Alliance* [2012] 11 BCLR 1148 (CC).

As I have debated with Ms Kabe, the applicant must show at
10 least a *prima facie* right in the context of an interim interdict. In the case of a final interdict, it would have to be a clear right; secondly, an apprehension of irreparable harm. Then, the balance of convenience in the context of an interim application; and lastly, the absence of any other satisfactory remedy. Ms Kabe has not set out any of those requirements in her founding affidavit. Neither did she do so in her oral argument.

In *HCI (supra)* the court referred to the well-known case mentioned by Mr *Whittington*, that is *Booyesen v Minister of Safety and Security* (2011) 32 ILJ 112 (LAC) at paragraph 54, where the Labour
20 Appeal Court made it clear that it is only in the most exceptional circumstances that this court will order the suspension of an internal disciplinary enquiry.

Whatever may happen with the investigation of the Law Society, quite obviously an employer has the right to take disciplinary action against an employee. Ms Kabe has not been able to show why

there are any exceptional circumstances why in the case before me that should not be so.

Despite being a candidate attorney, it does not appear as if the applicant has made any effort to research the requirements for an interdict that she had to satisfy before court today. The application was ill-conceived. The respondent has been brought to court on a meritless application. The application is dismissed with costs.

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