



THE LABOUR COURT OF SOUTH AFRICA, JOHANNESBURG

Not Reportable
Case no: JR3030/11

In the matter between:

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

First Applicant

BAMBO LOUIS MANUAL CRUIDA

Second Applicant

and

MAPALO TSATSIMPE N.O.

First Respondent

MEIBC, CENTRE FOR DISPUTE RESOLUTION

Second Respondent

WADEVILLE PUMP RECONDITIONERS CC

Third Respondent

Date: 13 January 2016

Decided in chambers

JUDGMENT - APPLICATION FOR LEAVE TO APPEAL

TLHOTLHALEMAJE, J

- [1] The review application brought by the Applicants against an award issued by the First Respondent (Commissioner) was dismissed in terms of a judgment handed down on 30 September 2015. The Applicants have since filed an application for leave to appeal against that judgment.

- [2] The application, which is opposed, was launched on 23 October 2015, and was served on the Third Respondent on 21 October 2015. The Third Respondent served its notice of opposition on the Applicants on 23 October 2015. On 11 November 2015, the Third Respondent filed a notice of non-compliance with the Practice Manual for the leave to appeal, pointing out that the application was out of time in terms of Rule 30 (3) of the Rules of this Court. On 19 November 2015, the Applicants filed full submissions in regards to the leave to appeal, further indicating that a condonation application would be filed immediately thereafter.
- [3] On 23 November 2015, the Third Respondent filed its full submissions in opposition to the application for leave to appeal, and again pointed out that the application for leave to appeal was hamstrung as a result of non-compliance with the rudimentary requirements of the Rules of this Court.
- [4] In terms of Rule 30 of the Rules of this Court, an application for leave to appeal to the Labour Appeal Court must be made and the grounds for appeal furnished within 15 days of the date of the judgment or order against which leave to appeal is sought, except that the court may, on good cause shown, extend that period. This Rule should be read together with clause 15.2 of this Court's Practice Manual which provides that;
- “Within 10 days of the filing of the application for leave to appeal, the party seeking leave must file its submissions in terms of Rule 30(3A) and the party opposing the leave must file its submissions five days thereafter. An application for leave to appeal will be decided by the judge in Chambers on the basis of the submissions filed in terms of Rule 30 (3A), unless the judge directs that the application be heard in open court.”
- [5] Judgment having been delivered on 30 September 2015, the application for leave to appeal as filed on 23 October 2015 is clearly out of time by some eight days. The submissions were equally filed out of time, and as at the writing of this judgment, the Applicants had not filed an application for condonation despite their undertaking to do so on 19 November 2015.

[6] In the light of the Applicants' non-compliance with the time frames applicable to such applications as set out in Rule 30 of the Rules of this Court, read together with clause 15.2 of the Practice Manual, the application for leave to appeal is clearly defective and accordingly ought to be dismissed.

[7] The applicants failed to heed the Third Respondent's warning in regards to their non-compliance with the applicable time frames. No attempt was made to rectify the defect despite an undertaking to do so. In the circumstances, considerations of law and fairness dictate that the application should be dismissed with costs.

Order:

- I. The application for leave to appeal is dismissed with costs.



Tlhotlhemaje, J

Judge of the Labour Court of South Africa