



THE LABOUR COURT OF SOUTH AFRICA, JOHANNESBURG

Not Reportable

Case no: 011365-2025

In the matter between:

MODIBEDI OLIPHANT

Applicant

and

MOTOR INDUSTRY FUND ADMINISTRATORS

First Respondent

**THE BOARD OF DIRECTORS: MOTOR INDUSTRY
FUND ADMINISTRATORS**

Second Respondent

THE CHIEF EXECUTIVE OFFICER: Ms LIHLE KHOZA

Third Respondent

Heard: 31 JANUARY 2025 AND 25 February 2025

Delivered: 03 MARCH 2025

(This judgment was handed down electronically by emailing a copy to the parties. The 03rd of MARCH 2025 is deemed to be the date of delivery of this judgment).

JUDGMENT AND VARIATION

SEEDAT AJ¹

[1] This came before me on the urgent roll for 31 January 2025.

[2] I perused the file and noted from the affidavit of service filed by Mr Thaanyane, the attorney for the applicant, that there was an email from Ms Walele, the attorney acting for the respondents, dated 29 January 2025 and transmitted at 13:22 to Mr Thaanyane.

[3] The email reads:

'The Second Respondent has advised that the First Respondent MIFA will pay the Applicant his outstanding salary to date by 31 January 2025.

In the circumstances, the First, Second and Third Respondent will not be opposing any application in relation to the payment of outstanding monies of your Client in the event that you intend to proceed with same.'

[4] When this matter was called on the day of the hearing there was no appearance by the respondents and Mr Thaanyane referred to the email from Ms Walele and his telephone discussion with her.

[5] The applicant moved the application and gave me a draft order. I was told that prayers 4 and 5 should be excised from the order.

[6] While a court retains a discretion in respect of costs, it is often guided by the parties. In his notice of motion, the applicant only asked for costs if the application was opposed. In any event, I did not intend to grant a cost order and the fact that the applicant did not ask for costs reinforced my view.

[7] As the draft order had been prepared by the applicant, I erred in not deleting prayer 6 that asked for costs.

¹ The request by the attorney for the respondents for reasons for my order was brought to my attention on or about 19 February 2025. When I logged onto CaseLines, I could not access this file. Attempts by the court personnel were also unsuccessful. I only received the complete set of documents on 24 February 2025.

[8] To that extent, the order of 31 January 2025 is varied in terms of section 165(b) of the Labour Relations Act 66 of 1995 and Rule 46(1)(ii) of the Rules of the Labour Court by substituting prayer 6 with an order that no costs will be payable by the respondents.

S Seedat
Acting Judge of the Labour Court of South Africa

Appearances:

Applicant:	N Thaanyane
Instructed by:	Thaanyane Attorneys Inc
First and Further Respondents:	No appearance



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Honourable Acting Justice Seedat **ORDERED** on **31 JANUARY 2025**.

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Third Respondent

DRAFT ORDER

Having read the papers and having considered the matter: sseedat

IT IS ORDERED THAT:

1. The Applicant's non-compliance with the rules relating to service and time periods in terms of the rules and dealing with this application as one of urgency in terms of the rules for conduct of proceedings in the Labour Court, more particularly, Rule 38 read with Rule 35 of the Labour Court Rules is condoned;
2. Interdicting and restraining the Respondents from withholding and/or refusing to pay to the Applicant his remuneration as prescribed in the terms and conditions of his contract of employment and interdicting and restraining the Respondents from effecting deductions from the Applicant's remuneration without any lawful basis.
3. Declaring the withholding and/or the refusal by the Respondent to pay the Applicant his remuneration as prescribed in the terms and conditions of his contract of employment and the effecting of impermissible deductions from the applicant's remuneration without complying with the law, unlawful;
4. There is no order as to costs.

BY THE COURT

REGISTRAR

sseedat

LABOUR COURT