REPUBLIC OF SOUTH AFRICA

IN THE HIGH COURT OF SOUTH AFRICA,
GAUTENG DIVISION, JOHANNESBURG

CASE NO: 2025-026762

(1) REPORTABLE: YES / NO
(2) OF INTEREST TO OTHER JUDGES: YES / NO
(3) REVIEWED: YES/NO

07 October 2025
DATE

[redacted]
SIGNATURE

In the matter between:

LOVELY ANGELS PRIMARY SCHOOL NPCALL OTHER UNLAWFUL OCCUPIERS OF EAST WING FIRST FLOOR DOMINIIN HOUSE 78 ANDERSON STREET JOHANNESBURG	Applicant
And	
BEDFIN PROPERTY HOLDINGS CC	Respondent

JUDGMENT

Raubenheimer AJ:

Introduction

[1] This application came before me in urgent court on 16 September 2025.The relief claimed was for a stay in the execution of an eviction order granted on 19 August 2025 in term of which the applicant was evicted from the premises leased by the applicant.[1]

[2] The application for the stay was dismissed.

[3] The applicant has requested reasons for the order. The reasons for the order follows below.

Background

[4] The applicant is registered as a non-profit company operating a private primary school on premises leased from the respondent.

[5] The respondent is a duly incorporated close corporation, the owner of a commercial property of which a portion was leased to the applicant in terms of a contract of lease entered into on 16 August 2021.

[6] The applicant fell in arrears with the rental payments and the respondent brought an application for the payment of rental in arrears since August 2023 in the amount of R306 176.32 plus interest and the eviction of the applicant from the premises.

[7] The application was granted on 19 August 2025, and the applicant was ordered to vacate the premises within fifteen days of the granting of the order.

[8] The application for a stay

[1] Caselines 090-1

[9] The applicant filed a notice of motion, initially without a founding affidavit and only filed its founding affidavit (referred to by the applicant as a supporting affidavit) on the same day that the respondent were required in terms of the notice of motion to file its answering affidavit, which was duly filed by the respondent. This course of events necessitated the respondent to file a supplementary affidavit to deal with the allegations contained in the supporting affidavit.

[10] The application was brought as interim relief pending the final relief. The interim relief being for a stay in the execution of the eviction pending the bringing of a rescission application for the rescission of the eviction order.

[11] The applicant submits that the basis for the application is that the respondent failed to declare a formal dispute prior to the eviction application. No consultative meetings occurred before the launching of the eviction application despite the applicant's request for such meetings to occur. The respondents were hell bent on making unjustifiable claims against the respondents and reinstated debts that have prescribed or being written off to bolster the outstanding debt. The applicant denies ever receiving the papers for the eviction application and was only informed via sms on 15 August 2025 to attend the hearing on 19 August 2025. When the director attended the court on 19 August 2025 he could not locate the matter on the court roll and consequently did not attend court hence the order was granted in his absence.

[12] The respondent contends that the lease agreement was cancelled in writing on 16 April 2024 and the applicant was demanded to vacate the premises immediately. The applicant consequently does not have a *prima facie* right to occupy the premises.

[13] The application is not urgent as the applicant knew as far back as 19 March 2025 that an application for its eviction will be sought and was informed by notice of set down on 31 July 2025 when the matter would be heard in court.

The applicant did not oppose the application and did not file any opposing papers.

[14] No agreement in respect of the writing off of debt was ever entered into neither was there any agreement for the applicant to remain in the premises whilst sorting our its financial woes. The respondent has in fact over the past two years repeatedly endeavoured to collect the outstanding debt.

[15] There were no pending negotiations for the conclusion of a new lease agreement. As the former lease agreement was cancelled due to breach by the applicant the respondent had no interest in concluding a new lease agreement with the applicant.

[16] The applicant has refused to make any rental payments since 13 December 2023, and the first formal letter of demand was sent on 4 March 2024. Since the eviction was granted the outstanding debt has increased to R456 230.92 and has the applicant steadfastly refused to make any payment towards the reduction.

Discussion

[17] For the applicant to be successful in an urgent application for an interdict such applicant has to traverse the urgency hurdle first.

[18] In addressing the urgency requirement the applicant proffers the reasons for the urgency to be the inherent nature of the urgency due to the fact that the respondent is preparing to remove it from the premises and the resultant potential damage to its assets and equipment. This contention is totally baseless and is wholly unsupported. It furthermore looses sight of the fact that the eviction has been authorised by the court.

[19] What makes this submission even more untenable is that the respondent has offered the applicant a further ten days over and above the fifteen days

in the court order to vacate the premises voluntarily. The applicant did not respond to the offer.

[20] Further contentions dealing with urgency relates to allegations of falsehoods perpetrated by the respondent. Such allegations of falsehoods and clandestine conduct has no bearing on the element of urgency. The applicant decries the finality of the removal as being evidence of the damage occasioned by the eviction. Neither is this indicative of the urgency of the matter.[2]

[21] The situation the applicant finds itself is due to its failure to oppose the application for eviction of which it was aware since March 2025 as well as failure to utilise the additional time afforded by the respondent. The urgency is entirely self-created.[3]

[22] The applicant has not succeeded in proving that the application is urgent.

[23] Apart from proving the requirements of an interim interdict, in the application for a stay in execution the applicant will have to additionally adduce evidence that real and substantial injustice will result if the stay is not granted, that irreparable harm will result if the underlying causa is eventually removed.[4]

[24] Apart from failing on the urgency requirement the applicant also failed in proving the requirements for an interim interdict.

[25] The aspect of the *prima facie* right has been dealt with extensively by the respondent. I have found no evidence to gainsay the evidence of the respondent in respect of the cancellation of the contract of lease.

East Rock Trading 7 (PTY) Ltd and Another v Eagle Valley Granite and Another's (11/33767) [2011] ZAGPJHC 196

[3] Dynamic Sisters Trading (Pty) Limited and Another v Nedbank Limited (081473/2023) [2023] ZAGPPHC 709 (21 August 2023). MM v NM and Others (15133/23P) [2023] ZAKZPHC 117 (18 October 2023)

[4] Gois t/a Shakespeare's Pub v Van Zyl 2011 (1) SA 148 (LC) at 155H – 156B

[26] The apprehension of harm is dealt with by the applicant with reference to the inconvenience, time and cost in obtaining alternative premises and moving to such alternative premises, the effect of the eviction on the learners who is preparing for examinations. None of these reasons provide acceptable proof of irreparable harm. The applicant has been the architect of its own misfortune.

[27] The applicant has steadfastly refused to pay the outstanding rent as well as the monthly rental since December 2023 and has made no effort to reduce the indebtedness. In these circumstances the balance of convenience swings in favour of the respondent as the respondent will be denied the immediate fruits of the judgment in its favour.[5]

Conclusion

[28] The applicant has not succeeded in establishing urgency, neither has the applicant complied with the requirements for an interim interdict.

[29] The applicant has not even addressed the additional requirements for the stay of an execution.

[30] The application was therefore dismissed with costs as per the court order dated 17 September 2025.

[redacted]

E Raubenheimer

ACTING JUDGE OF THE HIGH COURT OF SOUTH AFRICA
GAUTENG DIVISION
JOHANNESBURG

[5] BP Southern Africa (Pty) Ltd v Mega Burst Oils and Fuels (Pty) Ltd and Another [2020] ZAGPJHC 56;

Electronically submitted

Delivered: This judgement was prepared and authored by the Acting Judge whose name is reflected and is handed down electronically by circulation to the Parties / their legal representatives by email and by uploading it to the electronic file of this matter on CaseLines. The date of the judgment is deemed to be **07 October 2025**

COUNSEL FOR THE PLAINTIFF:	Self-Represented
INSTRUCTED BY:	N/A
COUNSEL FOR THE RESPONDENT:	Adv C Erasmus
INSTRUCTED BY:	Vogel Malan Inc
DATE OF ARGUMENT: DATE REASONS (JUDGMENT) WAS REQUESTED:	16 September 2025 29 September 2025
DATE OF JUDGMENT:	7 October 2025