



THE LABOUR COURT OF SOUTH AFRICA, CAPE TOWN

Not reportable

Case No: C08/2025

In the matter between:

THABANG MOTJAMELA

Applicant

and

GARDEN ROUTE DISTRICT MUNICIPALITY

Respondent

Heard: 24 June 2025

Delivered: 27 November 2025

This judgment was handed down electronically by circulation to the parties' legal representatives by email, publication on the Labour Court website and release to SAFLII. The date and time for handing down judgment is deemed to be 10h00 on 27 November 2025.

JUDGMENT

MELAPI, AJ

Nature of the application

- [1] This is an application in terms of rule 57(1) of the Rules Regulating the Conduct of Proceedings of the Labour Court (the Court rules). The Respondent, Garden Route District Municipality (Municipality) (GRDM) seeks to set aside the Applicant, Thabang Motjamela's (Motjamela) claim as he failed to serve the statement of claim to the Municipality in terms of rule 9(1)(b)(iv) and 9(2)(b).
- [2] Apart from the rule 57(1) application, there is also an application to condone the late filing of the application in terms of rule 57, which was filed 60 days late.

The condonation application

- [3] The Municipality brought a condonation application for the late filing of the notice in terms of rule 57, which was filed on 20 May 2025, over a period of more than two months. The condonation was not properly opposed.
- [4] The explanation for the late filing of the rule 57 application was due to administrative errors on the part of the attorney dealing with the matter, which arose due to the enormous cases Motjamela brought against the Municipality.
- [5] Since the rule 57 application is unopposed, with no prejudice to Motjamela and taking into consideration the Municipality's prospects of success; I see no reason to refuse condonation.

Factual background

- [6] On 16 January 2025, the applicant served the respondent a statement of claim by email. On 21 January 2025, he followed up with the Human Resources Manager and left a message. On 23 January 2025, the respondent attorney advise applicant that the statement of claim is not properly served in terms of rule 9(1)(b)(iv) and will file irregular proceedings in due course.
- [7] On 30 January 2025 the respondent attorney serves notice of irregular proceedings and filed same at court on 3 February 2025.

- [8] On 10 February 2025 the applicant files a request for a subpoena, for which the Court issued directives on 26 May 2025.

Legal Framework

- [9] This is an irregular step application (rule 57) in respect of service of documents to the Municipality in terms of rule 9(1)(b)(iv).
- [10] Rule 57 provides the procedure for the application and the possible outcome the court may consider at the hearing of the matter. Rule 57 reads as follows:
- (1) A party to a cause in which an irregular step has been taken by any other party may apply to court to set it aside
 - (2) An application in terms of subrule (1) must be brought on notice to all parties specifying particulars of the irregularity or impropriety alleged and may be made only if:
 - (a) The applicant has not itself taken a further step in the cause with knowledge of the irregularity,
 - (b) The applicant has, within 10 days of becoming aware of the step, by written notice afforded to the other party an opportunity of removing the cause of complaint within 10 days,
 - (c) The application is delivered within 15 days after the expiry of the second period mentioned in paragraph (b) above.
 - (3) if at the hearing of the application the court is of the opinion that the proceeding constitutes an irregular or improper step, it may set it aside in whole or in part, either as against all the parties or against some of them, and grant leave to emend within a specific period or make any order it deems appropriate.

- (4) until a party has complied with any order of court made against that party in terms of this rule, the party may not take any further step in the cause, save to apply for an extension of time within which to comply with the order.'

[11] Rule 9(1)(b)(iv) provides that:

- '(iv) if the party is a municipality, by serving a copy on the municipal manager, or any person acting on behalf of that person.'

Analysis

- [12] The Municipality brought an application for irregular proceedings for non service of the statement of claim. Motjamela was advised of non-service according to rule 9(1)(b) (iv). Instead of complying with rule 9(1)(b)(iv), Motjamela served and filed a request for a subpoena. The court issued directives in respect of the subpoena, which, at the time of the hearing, Motjamela failed to comply with. In any event, they are not related to the application before this court.
- [13] The Municipality in their Application prayed for this Court to uphold the irregular step filed in terms of Rule 57, to set aside the Plaintiff's statement of case in its entirety, and in respect of costs, that punitive costs be ordered, including the costs of counsel.
- [14] Rule 57(3) states that if at the hearing of the application the court is of the opinion that the proceeding constitutes an irregular step, it may set it aside in whole or in part, either as against all the parties or against some of them, and grant leave to amend within a specified period or make any order it deems appropriate.
- [15] It is argued by the Municipality that Motjamela served the statement of claim by email to a number of officials within the Municipality but not to the Municipal Manager.

- [16] Motjamela on the other side argues that he tried to serve the statement of claim by email, and when he followed up in person, he was unable to locate the Human Resource Manager, but he left messages.
- [17] It is clear the statement of case was not served on the Municipality Manager.

Costs

- [18] This brings us to the issue of costs. The Municipality prays for punitive costs. Motjamela is unrepresented and is a lay person. As much as he has brought a number of cases before this court, he is still unrepresented.
- [19] In the premise the following order is made:

Order

1. The late filling of the Respondent's application in terms of rule 57 of the Rules for the Conduct of Proceedings in the Labour Court is hereby condoned.
2. The application in terms of rule 57 is upheld.
3. The applicant is directed to comply with rule 9(2)(b)(iv), by serving his statement of claim on the Municipal Manager and or Acting Municipal Manager within 10 days of this judgment.
4. There is no order as to costs.


P. Melapi

Acting Judge of the Labour Court of South Africa

Appearances:

For the Applicant : Mr. T Motjamela (Self-representing)

For the Respondent : Advocate N Ristic

Instructed by : Brand & van Der Berg Attorneys