

IN THE LABOUR COURT OF SOUTH AFRICA, JOHANNESBURG

Not Reportable

Case No: JS196/17

In the matter between:

UCIMESHAWU obo KHOZA AGRINETH

Applicant

and

**COMMISSION FOR CONCILIATION
MEDIATION AND ARBITRATION**

First Respondent

COMMISSIONER SARAH MODISE

Second Respondent

PHUMELELA GAMING AND LEISURE

Third Respondent

Decided: In Chambers

Delivered: This judgment was handed down electronically by circulation to the parties' representatives through email. The hand-down date is deemed to be 27 November 2025.

JUDGMENT: LEAVE TO APPEAL

MAKOELE, AJ

Introduction

[1] The Applicant brought an application for leave to appeal against the judgment and order granted by me on 29 November 2024. The third Respondent opposed the application.

[2] Section 166(1) of the Labour Relations Act¹ (LRA) provides for a party to proceedings before the Labour Court to apply to the Labour Court for leave to appeal to the Labour Appeal Court (LAC) against any final judgment or final order of the Labour Court. The test for the granting of leave to appeal pertinent to the present matter is set out in section 17(1) of the Superior Courts Act 10 of 2013 as follows:

‘Leave to appeal may only be given where the judge or judges are of the opinion that—

- (a) (i) the appeal would have a reasonable prospect of success; or
- (ii) there is some other compelling reason why the appeal should be heard, including conflicting judgments on the matter under consideration;
- (b) The decision sought on appeal does not fall within the ambit of section 16(2)(a); and
- (c) where the decision sought to be appealed does not dispose of all the issues in the case, the appeal would lead to a just and prompt resolution of the real issue between the parties.’

[3] The Applicant relies on a fax transmission in alleging that the statement of case was filed on time. Firstly, Rule 5(3) of the Labour court rules states:

‘The original document must be lodged with the registrar. In the case of filing by faxing the document, the original document must be lodged within 5 days of it being faxed.’

[4] The original document was lodged in August 2020. Secondly, there is no indication that the court documents in the court file were missing. The only explanation from the Applicant is that she filed copies of her personal file after she was informed that the union’s file was lost during the moving of the offices.

¹ Act 66 of 1995, as amended.

[5] Considering the grounds of appeal, my judgment and the parties' submissions, I am not persuaded that another Court would come to a different conclusion or that there is some other compelling reason why leave to appeal should be granted.

[6] In the circumstances, I make the following order:

Order

1. The application for leave to appeal is dismissed.
2. There is no order as to costs.

R. Makoele

Acting Judge of the Labour Court of South Africa