



**IN THE HIGH COURT OF SOUTH AFRICA  
(WESTERN CAPE DIVISION, CAPE TOWN)**

Case no:2025-251436

In the matter between:

**DIANNE MORRELL**

**APPLICANT**

and

**GRAHAM CHRISTOPHER MACFARLANE**

**RESPONDENT**

**Coram:** BHOOPCHAND AJ

**Heard:** 8 January 2026

**Delivered:** 8 January 2026

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**JUDGMENT**

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**Bhoopchand AJ:**

[1] This is an urgent application in which the applicant seeks condonation for non-compliance with the rules, together with an order staying the enforcement of a ruling issued by the Rental Housing Tribunal on 12 December 2025. The Tribunal directed the applicant to pay the landlord an amount of R101 591.06 by 1 January 2026. The applicant has instituted a Rule 53 review, and the present application is brought pending the determination of that review.

[2] The applicant appears in person. A court may, within limits, assist an unrepresented litigant to understand the issues that arise and to clarify matters that are unclear on the papers. Such assistance is directed at ensuring fairness in the conduct of proceedings and does not detract from the court's duty to remain impartial. The court may pose questions to clarify issues relating to service, the chronology of events, or the nature of the relief sought. However, the court cannot descend into the arena or supplement defects in the applicant's case. Urgent relief must be made out in the founding affidavit, and oral explanations cannot cure the absence of essential averments or create a case not pleaded. The matter must accordingly be determined on the papers as they stand, with such limited clarification as is permissible

[3] The first issue is service and condonation. The founding affidavit does not explain how service was effected. The papers suggest that the respondent was served by email, but no explanation is provided for the deviation from the rules. While informal service may be accepted in urgent matters, the applicant must still place sufficient facts before the court to justify condonation. That has not been done. In urgent applications, Rule 6(12) empowers the Court to dispense with the ordinary forms and service and to adopt a procedure it considers appropriate. While service by email ordinarily requires consent, the decisive question in urgent matters is not consent but whether adequate notice of the application was brought to the respondent's attention. Even if I were to

overlook this defect, the application fails on urgency and on the merits of the interim relief sought.

[4] Turning to urgency, the applicant bears the onus to show that the matter cannot wait to be heard in the ordinary course. The Tribunal's ruling was issued on 12 December 2025. The applicant attempted to enrol the matter for 2 January 2026, but provides no explanation for the period between the ruling and that date, nor for how the matter ultimately came to be set down for 8 January. More importantly, the harm relied upon is financial in nature. The applicant states that she is unemployed, has dependent children, and will suffer hardship if the ruling is enforced. These circumstances evoke sympathy, but they do not constitute legal urgency. The enforcement of a monetary award does not amount to irreparable harm, and any prejudice can be reversed should the applicant succeed in the review.

[5] The applicant has also failed to demonstrate that she lacks an alternative remedy. She has already instituted a Rule 53 review and is entitled, within that proceeding, to bring an interlocutory application or an application on the motion roll for a stay on proper papers. Those remedies remain available to her. The existence of such alternative remedies undermines the claim to urgency.

[6] Even if urgency were established, the applicant has not made out a case for a stay of enforcement under the principles in *Gois t/a Shakespeare's Pub v Van Zyl* 2011 (1) SA 148 (LC). A stay of execution is granted only where real and substantial justice requires it, or where injustice would otherwise result. The applicant has not shown a well-grounded apprehension of imminent execution, nor has she demonstrated that irreparable harm will result if the ruling is enforced pending the review. The harm relied upon is purely financial, and the applicant places no facts before the Court to suggest that the respondent would be unable to repay the amount should the review succeed.

[7] For these reasons, the applicant has not made out a case for urgent relief. The application is accordingly struck from the roll for lack of urgency. Given the applicant's personal circumstances and the fact that the matter is unopposed, the Court makes no order as to costs.

## **ORDER**

In the premises, the order that follows:

1. The application is struck from the roll for lack of urgency
2. Condonation is not determined, as the matter is struck from the roll.
3. The applicant is granted leave, if so advised, to pursue appropriate interlocutory relief in the pending Rule 53 review.
4. There is no order as to costs

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**BHOOPCHAND AJ**

**Acting judge**

**High Court**

**Western Cape Division**

Judgment was delivered ex tempore on 8 January 2026

Applicant in person.

Respondent not represented