

IN THE LABOUR COURT OF SOUTH AFRICA  
HELD AT JOHANNESBURG

Case No: JR 2203/05

In the matter between:

**WOOLWORTHS (PTY) LTD**

Applicant

and

**SOUTH AFRICAN COMMERCIAL CATERING  
AND ALLIED WORKERS UNION**

First Respondent

**THE PERSONS LISTED IN ANNEXURE**

“A” TO THE NOTICE OF MOTION    Second to further Respondents

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**JUDGMENT**

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REVELAS, J

[1]    Yesterday was the return day of a rule *nisi* issued on 15 November of this year, where the Court gave interim relief to the effect that the second and further respondents be interdicted and restrained from approaching, or be within 500 metres of the perimeter of any of the applicant’s distribution centres situated in various parts of Johannesburg’s more industrial areas. This interdict was extended in a later application to apply to the respondent’s commercial outlets as well.

[2]    The second paragraph of the rule granted, was that the second and

further respondents be interdicted and restrained from intimidating, assaulting, harassing and in any other way interfering with the applicant's business, its employees and customers. The rule also provided for the second and further respondents to be interdicted and restrained from inciting or engaging any persons to commit any of the aforesaid acts.

[3] A mandatory order was also granted, compelling the first respondent ("the Union") to intervene and take all reasonable steps to ensure that its members conduct themselves in a lawful manner, and in particular, to refrain from obstructing access to, and egress from the applicant's stores, and intimidating or threatening or assaulting any other persons. A cost order was also sought against the respondents.

[4] The respondents deny any form of intimidation or acting in any unlawful manner. I was, however, shown a video recording (by the applicant) of a group of persons, some of whom carried sticks and preventing a truck from entering the applicant's premises. Other conduct shown to be participated in, was that one employee (if it was indeed an employee) sitting on the tar road and prevented a truck from turning into the applicant's premises. The group filmed in the video recording, consisted of approximately 60 persons who appeared to have been arrested by the police, whose presence was also seen on the video. None of the 60 persons featured in the video recording, were identified as employees and there was no attempt to identify these persons to the Court, whereas I do not

believe that would have been difficult for the applicant to do.

- [5] The Labour Court has always been, and probably always will be, sympathetic to employers in a situation where violence has erupted during a strike. It is against such behaviour that the Court would readily grant interdicts. However, there should be some limitation to the granting of such interdicts in situations where the respondents are not properly identified. The Court should always take into account what attempts have been made to identify persons against whom it issues such orders. It is not always possible to do so, and that *per se* would not be an impediment to obtain an interdict. That would depend on the facts of each case.
- [6] The respondents have, through their counsel in court, stated that there would be no problem with giving an undertaking that there will be no intimidation and incitement, however, that does not mean that I should make an order against them when one does not know which employees were involved in the actions complained of.
- [7] Even if just a few names were put forward, the Court would be in a position to grant such an interdict, in the knowledge that the order is directed against at least some specific individuals who have been shown to behave in a certain way. To grant a “blanket” court order, covering a whole range of the applicant’s stores and employees without any attempt to identify persons, I believe would be wrong.

[8] The applicant also wants an injunction against any of its employees picketing within 500 metres of its stores, and other premises. Here I must remind myself that the right to strike is guaranteed by the Constitution, and although that right has to be earned, by following certain procedures, and any limitation thereto should be guarded against. There is no point to a strike or picket, if employees are not permitted to be within 500 metres of the applicant's stores. I do not wish to take judicial cognisance of how wide a pavement is, but to place employees half a kilometre away from the stores, practically disables them from picketing, or if they choose to picket it would have no effect, whatsoever.

[9] It was suggested by counsel for the respondents that the relief that should have been sought by the applicant in this regard was one of interdicting employees, blocking the entrances of the store in question. Counsel for the applicant then argued that that would only mean that the applicant would have to come back to Court as such an arrangement cause disruption too.

[10] In the absence of any positive suggestion from the applicant as to how to resolve the problem, I am unable to confirm the rule. The applicants may, if there is any further intimidation or disruption at its premises, approach the Court again with an urgent application which contains much more particularity of the events complained of and a proper suggestion for picketing rules.

[11] In the circumstances the application is dismissed with costs.

Judge of the Labour Court

Date of Hearing: 07 December 2005

Date of Judgment: 08 December 2005

Appearances

For the Applicant: Ms K Linstrom instructed by Perrott, Van Niekerk and  
Woodhouse Inc

For the Respondents: Adv FA Boda instructed by KNRP Attorneys.