



- (1) Reportable: Yes/No
 (2) Of interest to other Judges: Yes/No
 (3) Revised

IN THE LABOUR COURT OF SOUTH AFRICA, JOHANNESBURG

Case No: JR 1685/22

In the matter between:

FILVENT (PTY) LTD

Applicant

and

DISPUTE RESOLUTION CENTRE (MIBCO)

First Respondent

DIALE NTSOANE N.O

Second Respondent

DAVID JOHANNES NEL

Third Respondent

Heard: 29 October 2025

Delivered: 20 March 2026

JUDGMENT

PHAJANE, AJ

Introduction

- [1] This is an application for condonation for the late filing of the applicant's review application before this Court. The application is brought in terms of the Rules of this Court. The application is unopposed.
- [2] The issue before the Court is whether the applicant has shown good cause for the late filing of the review application.

Legal Principles

- [3] The principles governing condonation are well established. The leading authority remains *Melane v Santam Insurance Co Ltd*¹, where the Court held that the factors relevant to the determination of condonation include: the degree of lateness; the explanation for the delay; the prospects of success on the merits; the importance of the case; and prejudice to the parties.
- [4] These factors are interrelated and must be weighed together in determining whether it is in the interest of justice to grant condonation.
- [5] The Constitutional Court in *Grootboom v National Prosecuting Authority and another*² emphasized that the overarching consideration in condonation applications is in the best interest of justice.
- [6] Furthermore, the Labour Appeal Court in *Colett v Commission for Conciliation, Mediation & Arbitration & others*³ held that prospects of success are an important consideration in determining whether condonation should be granted.

Degree of Lateness and Explanation

- [7] The delay in this matter is six (6) days, and the explanation given in the affidavit avers that the delay was occasioned by an administrative oversight in the offices of the applicant's attorneys. The attorney's secretary had received the signed affidavit but proceeded on leave before bringing it to the attorney's attention. As a

¹ 1962 (4) SA 531 (A).

² (2014) 35 ILJ 121 (CC).

³ (2014) 35 ILJ 1948 (LAC).

result, the matter was inadvertently not dealt with within the prescribed period. The explanation advanced is credible and sufficiently detailed to enable the Court to exercise its discretion judicially.

- [8] In my view, six days is not extraordinary, and the explanation is reasonable and acceptable in the circumstances.

Prospects of success and Prejudice

- [9] Another crucial factor in the exercise of this Court's discretion to grant condonation is whether the applicant's review application has reasonable prospects of success. The applicant has demonstrated reasonable prospects of success in the review application. While this Court is not required at this stage to determine the merits of the review, the grounds advanced disclose an arguable case that the commissioner may have committed a reviewable irregularity. In light of this, I am of the view that the applicant has established sufficient prospects of success, which, when considered together with the short delay, justifies condonation.

- [10] In the premises, the granting of condonation will not unfairly prejudice the third respondent.

Conclusion

- [11] Weighing all the relevant factors, it is in the interest of justice to grant condonation.

Order

1. The application for condonation for the late filing of a review application is granted.
2. There is no order as to costs.

GK Phajane

Acting Judge of the Labour Court

Appearance

For the Applicant: Mr. AB Brandmullers, Brandmullers Inc.

For the Third Respondent: No appearance