



- (1) Reportable: Yes
(2) Of interest to other Judges: Yes

Signature

Date

THE LABOUR COURT OF SOUTH AFRICA, JOHANNESBURG

Case no: 2026-062610

In the matter between:

FADEL LOGISTICS SOUTH AFRICA (PTY) LTD

Applicant

And

**THE REVOLUTIONARY UNION OF SOUTH
AFRICA (RETUSA)**

First Respondent

MEMBERS OF RETUSA LISTED IN A

Second Respondent

MEMBERS OF RETUSA LISTED IN B

Third Respondent

**NATIONAL BARGAINING COUNCIL FOR THE
ROAD FREIGHT AND LOGISTICS INDUSTRY**

Fourth Respondent

Heard: 18 March 2026

Delivered: 18 March 2026

Application brought *ex parte* to interdict strike before its commencement – section 68(2) of the LRA requiring 48 hours' notice to trade union – imminence of strike not grounds for lesser period of notice – interdict refused.

JUDGMENT

HARVEY J

- [1] This is an urgent application for a rule nisi interdicting the respondents, including identified employees, from participating in contemplated strike action, declaring the intended strike unprotected on the basis that the strike notice is alleged to be defective, and restraining the respondents from engaging in unlawful conduct including violence and obstruction, pending the return date.
- [2] The application is placed before me *ex parte*.
- [3] From the founding papers it appears that the applicant received a strike notice on 16 March 2026 giving notice of a strike set to commence on 19 March 2026 at 06h00.
- [4] It was submitted from the bar that at 21h30 on the evening of 16 March 2026 the applicant emailed the union calling upon it to retract the notice. This email was not placed before the court. The present application was instituted on 17 March 2026 with no notice to the respondents.
- [5] Section 68 of the LRA regulates strikes and lockouts which are not in compliance with the LRA. Section 68(1) confers exclusive jurisdiction on this Court to grant orders restraining persons from participating in a strike or any conduct in furtherance or contemplation of a strike. That power is expressly limited by section 68(2), which provides that the Court may not grant an order restraining a strike unless at least 48 hours' notice of the application has been given to the respondents. A shorter period may however be permitted only if written notice of the intention to apply for an order has been given, the respondent has been afforded a reasonable opportunity to be heard before a decision is taken, and good cause has been shown why a period shorter than 48 hours should be permitted. The section is peremptory in its terms.

- [6] As the application was brought *ex parte* the Court asked counsel to address it on the requirements of s68(2).
- [7] Counsel for the applicant initially submitted that section 68(2) does not apply where strike action has not yet commenced. That submission cannot be sustained. Section 68(1) expressly empowers the Court to interdict both actual and contemplated strike action. The limitation in section 68(2) attaches to the grant of an order restraining a strike. It is not confined to strikes that have already commenced. In court, counsel properly conceded that the subsection also applies in circumstances where strike action is anticipated.
- [8] It was next submitted on behalf of the applicant that prior notice to the respondents was not required because the relief sought is interim in nature – as it is coupled with a rule nisi, the respondents may anticipate the return date.
- [9] That contention cannot be sustained. Section 68(2) applies to any order restraining a strike, including interim relief. An order granted together with a rule nisi operates immediately and limits the exercise of the right to strike. The fact that the relief is framed as interim, or that a return date is provided, does not displace the requirement that the respondent be given notice and a reasonable opportunity to be heard before the order is granted. A hearing after the grant of an interim interdict does not satisfy the subsection.
- [10] In addition, the applicant relied on the imminence of the strike following a 48 hour strike notice to argue that the matter should be heard urgently. That is the ordinary statutory position and does not constitute good cause for dispensing with notice of an interdict application. If it did, the protection afforded by section 68(2) would be rendered ineffective.
- [11] Reliance was in addition placed on the applicant's concerns about potential violence and harm should the strike proceed. Those concerns are based on allegations which are untested. They do not, in any event, bring the application within section 68(2), which does not provide for *ex parte* relief. That section permits only a shorter period of notice, subject to compliance with its requirements.

[12] No basis was laid upon which this Court could conclude that even a truncated period of notice could not have been afforded, or that the respondents could not have been heard before the order was sought.

[13] To the extent that the application is motivated by the absence of agreed picketing rules, that is a separate issue. The regulation of picketing does not determine the existence of the right to strike. Disputes concerning picketing rules are to be pursued through the mechanisms provided for in the Act, and the Court notes that the applicant has already referred such a dispute to the fourth respondent bargaining council. The absence of agreed picketing rules is not a basis upon which this Court will interdict strike action in circumstances where the 68(2) notice requirement has not been met.

[14] In these circumstances, the applicant has not brought itself within section 68(2), and the interdictory relief sought cannot be granted.

Order

[1] The application is dismissed.

SJ Harvey

Judge of the Labour Court of South Africa

Appearances:

For the Applicant: Mr Zwane instructed by Dentons South Africa