



IN THE COMPANIES TRIBUNAL OF SOUTH AFRICA

CASE NO: CT02650ADJ2026

In the matter between:

MANNDE NICHODIMUS MASHUDU

APPLICANT

and

MASOMBUKA THABO RICHARD

RESPONDENT

Date of Decision: 25th June 2026

DECISION

INTRODUCTION

1. The Applicant is MANNDE NICHODIMUS MASHUDU a director of Solu Touch Compliance Solutions (Pty) Ltd (Registration 2016/266954/07).
2. The Respondent is MASOMBUKA THABO RICHARD a director of Solu Touch Compliance Solutions (Pty) Ltd (Registration 2016/266954/07).

3. This is an application in terms of sections 71(8)(b) of the Companies Act No. 71 of 2008 ('the Act') for an Administrative Order determining the removal of the Third Respondent as a director.

APPLICANT'S SUBMISSIONS

4. This is an application wherein the Applicant is requesting the Tribunal to make an order for the Respondent to be removed as director. The Applicant alleges that the Respondent has now ventured into another business space and he is no longer available to participate in this company, his unavailability is having a negative impact on the company

APPLICABLE LAW

5. Section 71 (removal of directors) is the applicable section of the Act.

71 of the Act provides as follows: *Removal of directors*

71. (1) Despite anything to the contrary in a company's Memorandum of Incorporation or rules, or any agreement between a company and a director, or between any shareholders and a director, a director may be removed by an ordinary resolution adopted at a shareholders meeting by the persons entitled to exercise voting rights in an election of that director, subject to subsection (2). (2) Before the shareholders of a company may consider a resolution contemplated in subsection (1)— (a) the director concerned must be given notice of the meeting and the resolution, at least equivalent to that which a shareholder is entitled to receive, irrespective of whether or not the director is a shareholder of the company; and (b) the director must be afforded a reasonable opportunity to make a presentation, in person or through a representative, to the meeting, before the resolution is put to a vote. (3) If a company has more than two directors, and a shareholder or director has alleged that a director of the company— (a) has become— (i) ineligible or

disqualified in terms of section 69, other than on the grounds contemplated in section 69(8)(a); or (ii) incapacitated to the extent that the director is unable to perform the functions of a director, and is unlikely to regain that capacity within a reasonable time; or (b) has neglected, or been derelict in the performance of, the functions of director, the board, other than the director concerned, must determine the matter by resolution, and may remove a director whom it has determined to be ineligible or disqualified, incapacitated, or negligent or derelict, as the case may be. (4) Before the board of a company may consider a resolution contemplated in subsection (3), the director concerned must be given— (a) notice of the meeting, including a copy of the proposed resolution and a statement setting out reasons for the resolution, with sufficient specificity to reasonably permit the director to prepare and present a response; and (b) a reasonable opportunity to make a presentation, in person or through a representative, to the meeting before the resolution is put to a vote. (5) If, in terms of subsection (3), the board of a company has determined that a director is ineligible or disqualified, incapacitated, or has been negligent or derelict, as the case may be, the director concerned, or a person who appointed that director as contemplated in section 66(4)(a)(i), if applicable, may apply within 20 business days to a court to review the determination of the board. (6) If, in terms of subsection (3), the board of a company has determined that a director is not ineligible or disqualified, incapacitated, or has not been negligent or derelict, as the case may be— (a) any director who voted otherwise on the resolution, or any holder of voting rights entitled to be exercised in the election of that director, may apply to a court to review the determination of the board; and (b) the court, on application in terms of paragraph (a), may— (i) confirm the determination of the board; or (ii) remove the director from office, if the court is satisfied that the director is ineligible or disqualified, incapacitated, or has been negligent or derelict. (7) An applicant in terms of subsection (6) must compensate the company, and any other party, for costs incurred in relation to the application, unless the court reverses the decision of the board. (8) If a company has fewer than three directors— (a) subsection (3) does not apply to the company; (b) in any circumstances contemplated in subsection (3), any

director or shareholder of the company may apply to the Companies Tribunal, to make a determination contemplated in that subsection; and 5 10 15 20 25 30 35 40 45 50 55142 (c) subsections (4), (5) and (6), each read with the changes required by the context, apply to the determination of the matter by the Companies Tribunal. (9) Nothing in this section deprives a person removed from office as a director in terms of this section of any right that person may have at common law or otherwise to apply to a court for damages or other compensation for— (a) loss of office as a director; or (b) loss of any other office as a consequence of being removed as a director. (10) This section is in addition to the right of a person, in terms of section 162, to apply to a court for an order declaring a director delinquent, or placing a director on probation

EVALUATION AND FINDINGS

6. The main issue is whether the Respondent has been negligent or derelict in his duties as director. Having considered the provisions of section 71 I am not convinced that the Respondent has acted negligently. While the Applicant alleges that the Respondent is running another business and is not available the Applicant does not provide any evidence for this. There is no evidence that the Applicant has tried to contact the Respondent. There is no evidence that the Respondent is neglecting his responsibilities. There is just a basic allegation without any evidence. The Applicant does not indicate that he tried to contact the Respondent or shown that the Respondent has neglected his duties.

7. The Tribunal finds that the application cannot be granted and is dismissed.

ORDER

8. The relief sought by the Applicant is dismissed.

MOHAMED ALLI CHICKTAY
MEMBER OF THE COMPANIES TRIBUNAL