



(1) Reportable: NO
(2) Of interest to other Judges: NO

Signature

Date

**IN THE LABOUR COURT OF SOUTH AFRICA
HELD AT CAPE TOWN**

Case Number: 2026-
189011

In the matter between:

GOLDEN ARROW BUS SERVICES (PTY) LTD

Applicant

And

NATIONAL UNION FOR ALL SECTORS (NUFAS)

First Respondent

And

**THOSE PERSONS WHOSE NAMES APPEAR
ON ANNEXURE "A" TO THE NOTICE OF MOTION**

Further Respondents

Heard: 28 August 2026

Delivered: 1 September 2026

JUDGMENT

DANIELS J

Introduction

- [1] The applicant brought an application to interdict an anticipated strike and now seeks to confirm the interim order issued by my brother, Lagrange J, on 14 August 2026. The matter came before me on the return date, 28 August 2026. On that day I reserved judgment and extended the interim order to the date of this judgment.

The facts

- [2] The first respondent and its members (hereafter “the Union”) referred a dispute with the applicant (hereafter “the GABS”) to the South African Road Passenger Bargaining Council (“the Bargaining Council”) in which they stated that the dispute related to a unilateral change to terms and conditions of employment.

- [3] In its referral to the Bargaining Council, the Union summarised the dispute as follows:

“1. The company had unilaterally shifted from 6 months final warning that is normally followed by 12 months final warning to a 6 months final warning that is followed by dismissal.

2. The company had unilaterally combined minor offences (distractions) that were starting from 6 months final warning to 12 months final warning and then dismissal with major offences (reckless/negligent driving) that are starting with 6 months final warning and then followed by dismissal.

3. The company had unilaterally used AFSOL System for Disciplinary Purposes”

- [4] In its answering affidavit, the Union abandoned its demand relating to AFSOL¹ cameras and footage.²
- [5] Discipline at the GABS is governed by a long-standing collective agreement - the Disciplinary Procedures Collective Agreement ("the Disciplinary Agreement"). Although the Union is not a party to the Disciplinary Agreement, many of its members were members of unions that were parties to the Disciplinary Agreement.
- [6] For many years, in disciplinary hearings, the applicant used footage from on-board cameras installed on the buses to capture activity on the road and in the bus drivers' cab. These cameras are known as Drive-Cams. GABS has a Drive-Cam Procedure that deals with such footage.
- [7] Following an earlier arbitration between SATAWU and the applicant, the arbitrator suspended the Drive-Cam Procedure in disciplinary hearings to allow the parties an opportunity to agree on an addendum to the Disciplinary Agreement and, thereby, incorporate the Drive-Cam Procedure into the Disciplinary Agreement. However, no agreement was reached.
- [8] GABS states that the Drive-Cam Procedure is not a collective agreement but a policy document dealing only with one aspect of discipline. Therefore, it states, the Drive-Cam Procedure cannot supersede the Disciplinary Agreement.
- [9] The Union plays coy. Nowhere does the Union state that the Drive-Cam Procedure is a collective agreement. This is only ever implied, and only in

¹ The AFSOL cameras operate on different technology to the Drive-Cam and are placed in different locations to capture different activity – such as the issuing of tickets.

² AA para 15

vague terms.³ For example, the Union submits that the applicant may not unilaterally amend the Drive-Cam Procedure and it states that the amendment to the Drive-Cam Procedure, through the Drive Procedure Version 2014/01, came into existence following a strike, was consulted on with unions, and was agreed to by employees.

[10] It is necessary to set out the relevant parts of the Drive-Cam Procedure Version 2014/01:

“[12] Reckless/negligent/dangerous driving offences such as the failure to observe stop signs; excessive speeds amongst others and accidents are viewed in a very serious light by the company and will be referred directly to major discipline in terms of the company’s disciplinary code, even for a first offence.

[12.1] Offences specific to failure to observe a stop sign or red robot will, following a disciplinary hearing where the employee is found guilty of the offence, result in a 6 months final written warning for the first offence and a 12 months final warning for the second offence. In the event that employee transgresses again while having a valid 12 months final warning, and he/she is found guilty of the offence, their services will be terminated. This clause 12.1 will be applicable only in respect of drive-cam offences as mentioned in this clause”.

(own emphasis)

[11] Despite conciliation before the Bargaining Council, the dispute remained unresolved. In its answering affidavit, the Union confirms its intention to engage in strike action in relation to the dispute, though it has not yet issued a strike notice.

³ AA para 14, particularly 14.9 (003-12 and 003-13); AA paras 28 and 29 (003-17); AA para 31 (003-18); AA para 37 (003-19); AA para 31 (003-18);

[12] At the heart of the dispute is the graduated warning system contemplated by the Drive-Cam Procedure. In that respect, the Union contends that the GABS has changed clause 12 by moving to a six-month final written warning followed by dismissal. The GABS denies making any such changes.

[13] The GABS contends that the dispute between it and the Union relates to the interpretation or application of an *alleged* collective agreement – the Drive-Cam Procedure. The GABS contends that sub-clause 12.1 is limited in scope to offences relating to the alleged failure to observe a stop sign or red robot.⁴

[14] The GABS also contends that the dispute relates to the Disciplinary Agreement, which is a collective agreement.

Legal issues and analysis

[15] At the hearing, the respondents did not take issue with urgency, and correctly so given that this is the return date for interim relief already granted. The respondents filed answering papers and attended the hearing, although they made brief and limited submissions.

[16] It is well established that this Court is required to engage with the underlying dispute and is not bound by the manner in which the dispute has been formulated in the referral to conciliation.⁵ The applicant contends that the underlying dispute relates to the interpretation and application of a collective agreement, as contemplated by section 24(1) of the Labour Relations Act No. 66 of 1995 (“the LRA”). It further contends that a collective agreement regulates the issue in dispute. Relying on section 65(1)(c) and 65(3)(a)(i) of the LRA, the applicant contends that the anticipated strike is unprotected. In brief, section 65(1)(c) prohibits strike action in relation to a dispute which can

⁴ FA para 61 (002-22 to 002-23); FA para 100 (002-40)

⁵ *Coin Security Group (Pty) Ltd v Adams and others* [2000] 4 BLLR (LAC)

be referred to arbitration or adjudication before this court in terms of the LRA, or any other employment law. Section 65(3)(a)(i) prohibits strike action where the issue in dispute is regulated by a collective agreement.

[17] A collective agreement is defined in section 213 of the LRA as a *written agreement concerning terms and conditions of employment or any other matter of mutual interest* between a registered trade union (or registered trade unions) and one or more employers (or registered employer organisations). Notably, the definition does not require that the agreement must be signed by the parties.

[18] In this matter, the applicant faces an insurmountable hurdle. In response to the applicant's allegations that the Drive-Cam Procedure is not a collective agreement⁶ the Union does not deny this.⁷ It appears to be common cause that the Drive-Cam Procedure is not a collective agreement.

[19] Even if it were not common cause, the Labour Appeal Court in *National Union of Metalworkers of SA & others v Highveld Steel & Vanadium Corporation Ltd*⁸ held that where the issue in dispute concerns whether there exists a collective agreement or not, section 24 does not apply.

[20] The applicant also relies on the Disciplinary Agreement to submit that the underlying dispute is regulated by a collective agreement or relates to its interpretation and application. I cannot accept that. The Disciplinary Agreement clearly does not regulate or deal with the issues in the Drive-Cam Procedure and the underlying dispute, in my view, relates to the Drive-Cam Procedure and its status. The Union seeks a Drive-Cam Procedure which the

⁶ FA paras 59.3 and 60 (002-22)

⁷ AA paras 21 – 33 (003-15 to 003-18)

⁸ [2001] ZALAC 11; (2002) 23 ILJ 895 (LAC) at para 20; see also *Association of Mineworkers & Construction Union v UASA — The Union on behalf of Members & others* (2021) 42 ILJ 1893 (LAC) at para [10]

applicant may not unilaterally amend. This is achievable only if the Drive-Cam Procedure is made a collective agreement.

[21] An applicant seeking a final interdict is required to demonstrate, among other things, a clear right to the relief it seeks. In this matter, for the reasons set out above, the applicant failed to do so. The application falls to be dismissed. I see no reason to make a cost order.

Conclusion

[22] In the circumstances, the application is dismissed.

RN Daniels

Judge of the Labour Court of South Africa

For the applicant
Adv G Leslie SC
Instructed by ENS Attorneys

For the respondents
Union official