

**IN THE LABOUR COURT OF SOUTH AFRICA**

**Before Landman J**

**Case Number: J303/98**

In the matter between:

**NUMSA OBO GLADWIN ZIBI**

**Applicant**

and

**SMILE EDUCATIONAL SYSTEM (PTY)**

**Respondent**

**PRESIDING JUDGE:**

**Landman J**

**ON BEHALF OF APPLICANT:**

**Ms Ruth Edmonds *of* Ruth Edmonds Attorneys**

**ON BEHALF OF RESPONDENT:**

**C T Ledden *of* CTL Management Forum**

**PLACE OF HEARING:**

**Braamfontein**

**DATE OF HEARING: 12 JUNE 1998**

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**JUDGMENT**

[1] A pre-trial conference was convened to be held in this matter at court this morning. The applicant, NUMSA, was represented by Ms Edmunds, an attorney of the High Court. Mr CT Ledden, chairperson of CTL Management Forum appeared on behalf of the respondent, Smile Education Systems (Pty) Ltd.

[2] Ms Edmunds objected to the appearance of the Mr Ledden on the basis that his organisation, CTL Management Forum was not a bona fide employers' organisation alternatively, if it was, there was no proof that the respondent was a member of the organisation.

[3] An official of an employers' organisation may appear in this court on behalf of a member of its organisation. See s 161 of the Labour Relations Act 66 of 1995.

[4] Mr Leddson produced a copy of a certificate of registration in terms of 96(7) of the Act. This certificate is not conclusive evidence that the organisation is a bona fide employer's organisation. See **Vidar Rubber Products (Pty) Ltd v The Commission for Conciliation, Mediation and Arbitration and others** (unreported J130/97). The documents in this matter are signed by Mr Leddson on behalf of CTL Management Forum (A Division of CTL Group (Pty) Ltd). An employers' organisation is defined in s 213 of the Act as meaning any number of employers associated together for the purpose, whether by itself or with other purposes, of regulating relations between employers and employees or trade unions. An employers' organisation which describes itself as a division of another employer is prima facie not an organisation of employers but a commercial arm of its parent company. In the absence of evidence to the contrary I am not satisfied that CTL Management Forum is a bona fide employers' organisation. In consequence Mr Leddson is not entitled to appear in this matter.

[5] Even if I am wrong there is insufficient proof before me to establish that the respondent is a member of the organisation. The say so of a person described as the organiser is insufficient to prove membership where this is

challenged. "Invoices" were produced. The invoices are not addressed to any person and I therefore do not to whom they apply. An organisation may send a reminder to members to pay subscriptions. An invoice prima facie points to the provision of services and reinforces my finding that the CTL Management Forum is not a bona fide employers' organisation.

[6] I note that the CTL Management Forum has not filed a statement of case in opposition to the applicant's statement of case. CTL Management Forum has filed an affidavit. This is a procedure not recognized by the rules of this court. Clearly the Forum has not familiarised itself with the rules of this court although it seeks to gain audience in this court on behalf of employers. As the matter was not aired this morning I do not intend striking out the affidavit on this occasion.

[7] In consequence the CTL Management Forum may not appear on behalf of the respondent. As there has been no appearance for the respondent it is appropriate that this matter be sent to trial without a pre-trial conference and I order that the respondent shall not be permitted to appear the hearing save if good cause as contemplated by rule 6 is shown. The respondent is to pay the costs of today.

Signed and dated at Johannesburg the 15 day of June 1998.

A A Landman

Judge of the Labour Court