

IN THE LABOUR COURT OF SOUTH AFRICA

SITTING IN CAPE TOWN

CASE NO.C224/98

IN THE MATTER BETWEEN

SHIRLEY ANN ADONIS

APPLICANT

AND

MODTEK SECURITY SYSTEMS

RESPONDENT

JUDGEMENT

ZONDO J:

[1] This matter has been brought to this Court as an urgent application. The applicant, one Shirley Ann Adonis, says that Modtek Security Systems, the respondent in this matter which is also her employer, has instituted an unprotected lock-out against her and urges this Court to intervene and declare the lock-out unlawful, interdict the respondent from continuing with the lock-out and order the respondent to **“effect such just and equitable payment to the applicant attributable to the lock-out as the above Honourable Court may deem fit.”** Although there was proof of service of the application on the respondent, the respondent did not oppose the applicant’s application.

[2] The applicant was represented by Mr Bloomberg who informed the Court that he is the President of a trade union known as the National Union of Commercial, Catering and Allied Workers of which, I assume, the applicant is a member.

[3] The applicant says she has been in the employ of the respondent since 27 January 1998 as a manager. She does not explain what the respondent does but from its name I assume that it provides security services. The applicant says in her affidavit on the 15th May 1998 the respondent **“unilaterally amended [her] terms and conditions of employment by providing [her] with a document annexed [to the founding affidavit] and marked annexure SA1.”** She goes on and says the respondent told her that, unless she signed that document, she would not be allowed to enter the premises to perform her contractual obligations in terms of her contract of employment.

[4] The document marked “SA1” in the papers is a letter from Mr Bloomberg, the applicant’s representative, addressed to “Messrs Modtek” at 51 Capri Way Sea Crest demanding various things from the addressee including the restoration of the status quo ante the the so-called lock-out. In other words that document cannot be the one the applicant says was given to her by the respondent on the 15th May 1998. A document which, in all probability, is the one that the applicant refers to as the document that was given to her by the respondent on the 15th May 1998 is marked “SA2” in the application papers.

[5] I assume that the document that the applicant says she was given on the 15th May 1998 to sign which she says represents a change in her terms and conditions of her employment is therefore the one annexed to her founding affidavit marked “SA2.” That document says it is an agreement between one Russell James Fabe and Shirley Ann Adonis----- which is the applicant. The agreement, which is in handwritten form, says in its first paragraph that the parties thereto have committed themselves “**to an agreement for the aforesaid mission they wish to intervene into, namely Modtek Security Systems.**” Paragraph two thereof says : “**Modtek Security Systems is a New Developed Business that has certain assets paid for by either party (Mr R.J.Fabe and Mrs S.A.Adonis).**”

3In terms of the agreement the applicant is to have a 30% share or interest in the business.

[6] The last paragraph of the agreement reads thus:- “**I Shirley Ann Adonis hereby understand the contents of this agreement and have no comments or objection to adhere to the signing and to perform according to stipulations in the aforesaid agreement.**”

Below that paragraph appears on the right hand side a signature and below the signature is printed in ink the names: Shirley Ann Adonis. The names stands in such a way in relation to the signature as to suggest that they are the names of the person whose signature appears just above them. The signature seems to be that of the applicant and resembles her signature as it appears in her founding affidavit. Lower down in the same page which has the applicant’s signature in the agreement appears a date stamp of the South African Police Service, Charge Office, Cape Town. A police officer has also signed the last page in his capacity as a Commissioner of Oaths. On two areas in the last page appears the office stamp of the respondent.

[7] Although in her affidavit the applicant says she was given the agreement and told unless she signed it, she would not be allowed to enter the premises, she refrains from stating whether she signed it or not nor does she state what her response was when she was told this. She elects also not to disclose the identity of the person who gave the document to her and to tell the Court what position such person holds in the firm. In the absence of any denial in her affidavit that the signature at the end of the document is hers or in the absence of an explanation as to how her signature came to be on the agreement, I must decide the matter on the basis that that

signature is hers and that she has signed the agreement. In those circumstances the applicant has agreed to the so-called new **“terms and conditions”** and accordingly has no cause of action and her application falls to be dismissed. There are other deficiencies in the applicant’s case but it is not necessary to consider those in the light of what I have just said immediately above. I simply say in passing I have always understood our law to only contemplate a lock-out against more than one employee and not one employee as is the case here. In those circumstances the application falls to be dismissed and it is dismissed.

R.M.M.ZONDO
JUDGE OF THE
LABOUR COURT

18 June 1998