

Sneller Verbatim/HDJ

IN THE LABOUR COURT OF SOUTH AFRICA

BRAAMFONTEIN

CASE NO: JS234/02

2002-10-18

In the matter between

P M KACHELHOFFER

Applicant

and

AGRICULTURAL RURAL DEVELOPMENT CORP

Respondent

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J U D G M E N T

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REVELAS J:

1. This is an application for the condonation of the late referral of a dismissal received by the applicant through the Labour Court. The delay is twelve days. In other words, the dispute was filed twelve days out of time. The explanation offered by the applicant for this delay which, in my view, is almost negligible, is that the consultant whom he took advice from, miscalculated the amount of days by not referring to

the correct Act. On 23 March 2002 the applicant's legal representative was notified by the respondent's attorney that an application for condonation had to be brought in respect of the late referral. Only six months later, in September, the applicant brought the application for condonation. The delay is due to the fact that the applicant's representative was of the firm opinion that condonation need not be brought. This was an error which should not be attributable to the applicant.

2. Considering the explanation for the delay, the degree of lateness and the prospects of success, which on the papers seem to be reasonable, I believe that condonation for the late referral should be granted.
3. However, when considering the question of costs, I have to take into account that the applicant personally was not to blame for this delay. On the other hand, the respondent was also prejudiced by the delay.
4. I do not believe that a punitive cost order against any party would address the respondent's prejudice.
5. In the circumstances, I make the following order:
 1. The late referral of the applicant's dispute to the Labour Court is condoned.
 2. There is no order as to costs.

E. Revelas