

Sneller Verbatim/JduP

IN THE LABOUR COURT OF SOUTH AFRICA

BRAAMFONTEIN

CASE NO: J3466/02

2003.03.18

In the matter between

ALUDI TECHNOLOGIES (PTY) LIMITED

Applicant

and

L J VAGHELA

Respondent

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J U D G M E N T

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REVELAS, J:

1. In this matter an application was brought by the applicant, Aludi Technologies (the respondent), to set aside the order made by the Labour Court on 10 October 2002. In terms of that order Ndlovu J made the award issued by a commissioner of the Commission for Conciliation, Mediation and Arbitration, dated 8 July 2002, an order of court. The respondent was not notified of the date of set down. I am aware of the

rule that the registrar is not obliged to notify the respondent of set down where the respondent has never given an indication that it wishes to oppose a particular matter.

1. 1.2. In this matter I am satisfied that there is a proper explanation before me for the absence of such papers. The applicant, who resides in a different province, sent its papers by courier which did not reach their destination. I also wish to note that in this court, judgments are too often set aside. However, the legislature thought it fit to design a remedy for a harsh rule to ameliorate or rectify the situation created where the registrar is not obliged to notify a respondent who has not put papers before the court within a certain time of the date of hearing. Because of this inroads of this rule into the *audi alteram partem* rule judges of this court are generally lenient towards respondents who have not accordingly been notified.

3. In the circumstances I make the following order:

1. The order of Ndlovu AJ, dated 10 October 2002, is rescinded.
2. There is no order as to costs.

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E. Revelas