

**IN THE LABOUR COURT OF SOUTH AFRICA HELD IN
JOHANNESBURG**

Case no: JR 557\06

In the matter between:

MAKHOSINI ABEL BALOYI

Applicant

And

**NATIONAL BARGAINING COUNCIL
FOR THE CHEMICAL INDUSTRY**

First Respondent

JOHNNY MATHEBULA N.O

Second Respondent

CALTEX SA

Third Respondent

JUDGMENT

MOSHOANA AJ

Introduction

[1] This is a review application of a ruling made by the Second Respondent made on 28 October 2005. The application is opposed.

Background facts

[2] The Applicant was dismissed for misconduct. Upon consultation with his union he was told that his case is weak. Outside the

required period, 13 days later he referred the dispute to the First Respondent. The Second Respondent considered a Condonation application. He found that the 13 days delay was not excessive. He however, refused to condone the non-compliance due to lack of good cause being shown and prospect of success on the merits.

- [3] About three and half months later the Applicant filed a review application. This was obviously outside the six weeks period. No Condonation application was filed. The matter was placed on the motion roll of 13 December 2006. Mokgoataleng AJ made the following order:

- 3.1. The matter is postponed *sine dine* to enable Respondent (applicant) to file its Condonation within 60 days.
- 3.2. There is no order as to costs.

Around 13 December 2006, shortly after the order, the Applicant filed a sworn statement. In that statement (which he later contended is the condonation application) a feeble attempt was made to explain the delay. He did not deal with the prospects of success.

Submissions in court

- [4] During submissions the Applicant argued that he has prospects of success. Upon inquiry, he indicated to the court that the Second Respondent was not in his view allowed to determine the Condonation application without him being present. In reply he submitted that he was not aware that the rules of the First Respondent allowed determination without hearing the parties.

Analysis

[5] This is one of those hopeless cases that consume the court's time. There is absolutely no merits in the Condonation application. There is no acceptable explanation neither is there prospects of success on the review application.

Order

1. Accordingly the application for Condonation is dismissed with costs.

G N MOSHOANA

Acting Judge of the Labour Court

Johannesburg

Appearances

For the Applicant	: In Person
For the Respondent	: M Delany
Date of hearing	: 03\05\2007
Date of Judgment	: 09\05\2007