

**IN THE LABOUR COURT OF SOUTH AFRICA  
HELD AT CAPE TOWN**

In the matter between:

CASE NO: C527/08

**TORMALINE CLEANING SERVICES**

Applicant

and

**CCMA**

First Respondent

**COMMISSIONER EDWARDS**

Second Respondent

**LIESEL WILLIAMS**

Third Respondent

**HAYLEY WILLIAMS**

Fourth Respondent

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**JUDGMENT: LEAVE TO APPEAL**

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**TIP AJ:**

[1] The applicant has brought an application for leave to appeal against an order made by me on 27 January 2010 in which I dismissed its application for the review of the second respondent's award dated 19 May 2008. This order was made pursuant to a judgment in which the essential reasons for my decision were set out. I do not intend to traverse those reasons again for the purpose of this judgment.

[2] It is nevertheless appropriate to briefly restate the history of this

matter in order to place the present application in context:

[2.1] The applicant provides a cleaning service to various clients and the third and fourth respondents had been employed by him. On 13 March 2008 they were told to leave the premises where they were working by one of the applicant's clients. Subsequent events pointed to the applicant having dismissed them. A con-arb was scheduled for 5 May 2008 but Mr Sasman, the owner of the applicant, did not attend. He phoned in to say that he had a meeting with a client. The second respondent proceeded with the matter and then delivered his award, holding that the third and fourth respondents had been unfairly dismissed and awarding them compensation.

[2.2] The applicant thereafter brought an application for the rescission of the award. The second respondent dismissed this application, on the basis of a reasoned decision. The applicant has not sought to review this decision. He nevertheless persisted with the review of the award itself and, as already indicated, that was dismissed by me, *inter alia* because I considered that the second respondent's award was reasonable and justifiable. I should add that the parties were in court when I heard the review application and Mr Sasman was able to present his contentions.

[3] The present application for leave to appeal does not directly assail the judgment delivered by me in this matter. Rather, it reviews the relevant events and introduces fresh material. It concludes by repeating that Mr Sasman had phoned the relevant parties on the morning of the con-arb and goes on to state this: *"However the hearing went on without my side of the story and a judgment was made against me. I found this behaviour to be unfair and thus appeal*

*to the court to once again hear me and judge me fairly."*

- [4] In effect what this amounts to is, firstly, to attempt to resuscitate the rescission application which has already been dismissed and, secondly, to move that I should rescind my own judgment and order so that the applicant can be heard for a second time in this court. Neither of those measures is competent. I am mindful of the fact that Mr Sasman has shouldered the burden of representing his firm without the benefit of legal assistance, but that cannot alter the adjudication of what is and what is not permissible in terms of the procedures of this court.
- [5] In addition to this consideration, I am also not persuaded that the outcome of this case would have been any different if Mr Sasman had put his further submissions forward at the stage of his rescission application. There comes a point when the interest of finality must be given due weight and that point has in my view certainly been reached in this matter.
- [6] This judgment has been prepared without a further oral hearing. In terms of a directive issued by this court, the parties were required to make written submissions by stipulated dates, if they so wished to do. No such submissions have been received. In any event, the basis of the application for leave to appeal is clearly apparent from the terms of the notice filed by the applicant.
- [7] I accordingly make the following order: The application for leave to appeal is dismissed. There is no order as to costs.

**K S TIP**  
**ACTING JUDGE OF THE LABOUR COURT**