



IN THE LABOUR COURT OF SOUTH AFRICA, CAPE TOWN

Not Reportable

Case no: C473/2019

In the matter between:

TARRENT RICHARD BEST

First Applicant

LOREN HAZEL BEST

Second Applicant

PETER BEST

Third Applicant

CHERYLLE-ANNE BEST

Fourth Applicant

and

FT RECRUITMENT (PTY) LTD t/a OPTIMUM

SOLUTIONS

First Respondent

MICHAEL REGINALD ROBERTS

Second Respondent

Date heard: 3 February 2021 on the papers

Delivered: 8 April 2021 by means of scanned email

JUDGMENT

RABKIN-NAICKER J

- [1] This is an opposed application for condonation for the late filing of a referral. The applicants are seeking condonation for a 106 day delay in referring the matter to this Court. The certificate of non-resolution of the dispute was issued five and

half months before the Statement of Case was delivered. The delay is therefore substantial.

- [2] The respondent avers that although the applicants were alerted to the fact that time would start running after the issue of the certificate at the conciliation, and that the retrenchments they were challenging involved 11 employees and the CCMA did not have jurisdiction, they nevertheless referred the matter to arbitration at the CCMA. That the submissions relating to the lack of jurisdiction were made by the respondent's attorneys is confirmed by the applicants in their application for condonation. A Jurisdictional Ruling then determined that the CCMA had no jurisdiction to hear the dispute.
- [3] The applicants proceeded to compute the *dies* as running from the date of the Jurisdictional Ruling. They determined they could represent themselves at the Labour Court. They state the delay was caused by their bona fide but mistaken belief about the time periods and not due to their own negligence. The first applicant was the Managing Director of the respondent company. The further applicants are members of his family. They do not explain why they did not obtain legal assistance herein. In any event it is trite that ignorance of the law is no excuse.
- [4] There is no need for this Court to delve into whether the applicants have prospects of success in the main case. They have provided no acceptable explanation whatsoever for what is a substantial delay in referring their claim to this Court. It is trite that in these circumstances, the enquiry into whether to grant condonation need go no further¹. I see no reason to make an exception to the principle that costs do not necessarily follow the result in the Labour Court and make the following order:

Order

1. The application for condonation is dismissed.
2. The applicants claim is dismissed.

¹ *NUM v Council for Mineral Technologies* [1999] 3 BLLR 209 (LAC) at 211G-H

3. There is no order as to costs.



H. Rabkin-Naicker

Judge of the Labour Court of South Africa

Representation

Applicants: In Person

Respondent: Brendon Guy & Associates