

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

Case No: **C471/2016**

In the matter between:

IMPERIAL RETAIL LOGISTICS (PTY) LTD

Applicant

and

MARAWA, M N.O.

First Respondent

NATIONAL BARGAINING COUNCIL

FOR THE ROAD FREIGHT & LOGISTICS INDUSTRY

Second Respondent

MALANGENI, L

Third Respondent

Date of Set Down: 30 June 2022

Date of Judgment: This judgment was handed down electronically by circulation to the parties' legal representatives by email, publication on the Labour Court website and release to SAFLII. The date for handing down judgment is deemed on 30 June 2022.

JUDGMENT

VAN VOORE AJ

[1] The matter was set down for hearing as an opposed review and condonation application to be heard on 30 June 2022 at 10h00 or so soon thereafter as the parties may be heard. The applicant's attorneys of record are Snyman Attorneys of 2 Eton Road, Parktown, Johannesburg. The third respondent's attorneys of record are

Ismail & Dahya Attorneys of 26A Shortmarket Street, Cape Town. The notice of set down was issued to the attorneys of record for the applicant and the third respondent. The applicant's attorney was in court today, 30 June 2022. The third respondent's attorneys failed to arrive.

[2] The matter concerns an application to review and / set aside an arbitration award of the first respondent. The third respondent, Mr L Malangeni, had referred an alleged unfair dismissal dispute to the second respondent. The first respondent issued an arbitration award in which he determined that the dismissal of the Mr Malangeni was substantively unfair and awarded that he be reinstated into the employ of the applicant together with retrospective backpay.

[3] Mr Malangeni has a favourable arbitration award which the applicant seeks to challenge. Mr Malangeni's attorneys have not delivered a Notice of Withdrawal as Attorneys of Record. Mr Malangeni himself was not present in court today. It is unclear whether Mr Malangeni was aware that the matter had been enrolled for hearing.

[4] In all of the circumstances, it is not appropriate that the court proceeds to hear the matter in the absence of Mr Malangeni. However, Mr Malangeni's attorneys of record were obliged to be present in court today. Their failure to be present in court today prejudices the interests of their client, Mr Malangeni, and the efficient administration of justice. There are no documents in the court file which explain the absence in court today of the third respondent's attorneys of record.

[5] In all of the circumstances, the appropriate order is that.

Order:

1. The matter is postponed *sine die*.
2. The Third Respondent's attorneys of record are ordered to pay the wasted costs of the day (*de bonis propriis*).

3. The Third Respondent's attorneys of record are afforded an opportunity of seven (7) court days from the date on which this judgment is brought to their attention to object to the order as to costs.

VAN VOORE AJ
ACTING JUDGE OF THE LABOUR COURT

Appearances

For the Applicant: Mr Orton instructed by Snyman Attorneys

For the Respondent: No Appearance