THE LABOUR COURT OF SOUTH AFRICA, CAPE TOWN

Case no: C350/2021
Not Reportable

In the matter between:

ESTELLE MURRAY **Applicant**

And

DE NECKER DENTISTRY INCORPORATED **Respondent**

Heard: **22 June 2023**

Delivered: **On 27 June 2023, electronically via email, publication on the Labour Court's website and release to SAFLII.**

Summary: Non-compliance with subrule 6(4)(a) by failing to convene a pre-trial conference within 10 days of the response - both parties (applicant and respondent) are obligated to convene a pre-trial conference - applicability of subrule 37(2)(b) of the Uniform Rules of Court - whether failure to convene a pre-trial conference gives rise to a duty to apply for condonation as contemplated in subrule 6(7).

JUDGMENT

DZAI AJ

Introduction

[1] Ms. Estelle Murray (the **"applicant"),** brought a condonation application in terms of subrule 12(3) of the Labour Court Rules **("LC Rules")** after being prodded by her erstwhile employer, De Necker Dentistry Incorporated (the **"respondent"),** to first seek condonation for her failure to comply with subrule 6(4)(a) of the LC Rules and to seek leave of the court before she ca proceed with the matter. The condonation application thereafter became fiercely opposed by the respondent.

Questions for determination

[2] Subrule 6(4)(a) of the LC Rules provides that when a response is delivered, ***the parties to the proceedings must hold a pre-trial conference*** in terms of subrule 6(4)(b) within 10 days of the date of delivery of the response.

[3] Subrule 6(7) of the LC Rules specifically deals with non-compliance arising from a failure to attend a pre-trial conference *"convened"* in terms of subrules 6(4), 6(5) and 6(6). Subrule 6(7)pecifically provides that:

> (7) ***'If any party fails attend any pre-trial conference convened*** *in terms of Subrule (4)(a), (5)(b) or (5)(c), or fails to comply with any direction made by a judge in terms of subrules (5) and (6),* ***the matter may be enrolled for hearing on the directions of a judge*** *and* ***the defaulting party will not be permitted to appear at the hearing unless the court on good cause shown orders otherwise.'*** Emphasis added.

[4] Accordingly, this matter turns on the question whether the applicant's failure to initiate and convene a pre-trial conference in terms of subrule 6(4)(a) of the LC Rules, within 10 days after the respondent had delivered its response, gives rise to the applicant's duty to apply for condonation as contemplated in subrule 6(7) of the LC Rules. In other words, did the applicant commit a failure to comply with subrule 6(4)(a) as contemplated in subrule 6(7) of the LC Rules, giving rise to a duty upon her to show good cause before she can proceed to convene a pre-trial conference? **("first question").**

[5] If the answer to the first question is in the affirmative, then the next question is whether the applicant has shown good cause for her failure to comply with subrule 6(4)(a) read together with subrule 6(7) of the LC Rules and paragraph 10.4.4 of the LC Practice Manual to justify an order condoning her failure? **("second question")**

[6] If the answer to the first question leads to a negative finding, then the applicant has not committed a non-compliance contemplated in subrule 6(4)(a) read together with subrule 6(7) of the LC Rules and paragraph 10.4.4 of the LC Practice Manual and was consequently not obliged to show good cause at the time the respondent refused to provide suitable dates for a pre- trial conference and demanded the applicant apply for condonation in order for her to proceed with the maitter and I need not deal with the second question.

Applicable background facts

[7] On 2 July 2021, the applicant represented by her then erstwhile attorneys, Moolla Attorneys Incoporated, served and filed her statement of claim in terms of subrule 6(1) of the LC Rules.

[8] According to subrule 6(3)(c) of the LC Rules, the respondent's response was due within 10 days after the serving and filing of the statement of claim, on or before 16 July 2021. However, the respondent's attorneys, Waldick Jansen Van Rensburg Incorporated **("Waldick"),** only delivered its response a month later on 5 August 2021.

[9] It is common cause that the parties did not hold a pre-trial conference within 10 days after the respondent served and filed its response, that is on or before 20 August 2021. It is further common cause that the applicant never delivered a minute of a pre-trial conference with the registrar on or before 27 August 2021 and as contemplated in subrule 6(4)(d).

[10] On 29 October 2021 the applicant substituted her erstwhile attorneys

of record to her current attorneys of record, De Klerk & Van Gend Incorporated **("DKVG").**

[11] It is further common cause that on 6 May 2022, DKVG addressed a letter to Waldick initiating steps towards the convening of a pre-trial conference to be held on 26 or 27 May 2022 or at an alternative date suitable to bath parties. In the letter, DKVG gave Waldick an opportunity to respond by 13 May 2022. Waldick elected not to respond to the request.

[12] On 18 May 2022, DKVG followed up on its request for a pre-trial conference. Waldick responded on the same day via email stating that: ***"It seems that your client did not adhere to the rules and will have to bring an Condonation Application to proceed with the case."***

[13] On 22 September 2022, Mr. Ntuthuko Msomi **("Mr. Msomi")** from DKVG launched an application for condonation on behalf of the applicant. In his founding affidavit, Mr. Msomi alleges that on 21 June 2022 a Clerk from DKVG attended at the Labour Court to enquire as to whether a condonation application would be necessary. He says that the Clerk was instructed by the Labour Court that such an application was necessary.

[14] In its answering affidavit, deposed to by its Head of Finance and Admin, Ms. H Ida Pretorius, the respondent alleges that it was the duty of the applicant to ensure that a pre-trial conference was held on or before 20 August 2021 and reiterates its stance that a condonation application was necessary in order for the applicant to proceed with her case.

[15] There was no evidence presented by both parties that the court file had been archived by the registrar.

Application of the Court Rules to the background facts of this case

[16] In their respective submissions, the parties failed to deal with the first question for determination *in* casu and proceeded to deal only with the second

question, without first establishing whether there was indeed non-compliance with the rules on the part of the applicant as contemplated in subrule 8(7) of the LC Rules.

[17] At the hearing of this matter, I invited both parties to make submissions on the applicability of subrules 37(2)(a) and (b) of the Uniform Rules of Court **("Hc Rules")** in cases where the LC Rules were silent and I also referred the parties to the judgment of Eloff JP in *Kemp v Randfontein Estates Gold Company*[1] *("Kemp"),* wherein Eloff JP held that the omission to hold a pre-trial conference as required in Rule 37 does not attract the duty to apply for condonation.[2]

[18] I informed the parties that in so far as the initiation of the pre-trial conference was concerned, subrule 6(4)(a) of the LC Rules places an obligation on both parties to hold a pre-trial conference in terms of subrule 6(4)(b) within 10 days of the date of delivery of the response. Similarly, subrule 37(2) of the Uniform Rules of Court (**"HC Rules"**) also places an obligation on both parties to hold a pre-trial conference within 10 days of a specified event. However, subrule 37(2) of the HS Rules goes further in sharing the responsibility between the parties and shares it as follows:

> 18.1 In cases not subject to judicial case management as contemplated in rule 37A, a plaintiff who receives a notice of a trial date of an action shall within 10 days deliver a notice in which such plaintiff appoints a date, time and place for a pre-trial conference.[3]
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> 18.2 If the plaintiff has failed to comply with subrule 37(2)(a), the defendant ***may*** within 30 days after the expiry of the 10 days period mentioned in subrule 37(2)(a), deliver such notice.[4]

[19] Counsel for the applicant, Adv. Sidaki conceded that subrule 6(4)(a) places an obligation on both parties to hold a pre-trial conference and was similar to the

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[1] 1996 (1) SA 373 (W).
[2] *Kemp* at 374F.
[3] Subrule 37(2)(a).
[4] Subrule 37(2)(b).

provisions contained in subrule 37(2)(a) of the HC Rules and submitted that subrule 37(2)(b) finds applicability in these proceedings and that both parties failed to comply with the rules.

[20] Counsel for the respondent, Adv. Van Der Westhuizen submitted that the respondent's duty to hold a pre-trial conference was only limited to the 10 days period after the respondent's response was delivered. He disagreed that subrule 37(2)(b) of the HC Rules applies and referred me to the judgment of this Court in *Liquid Telecommunication (Pty) Ltd v Carmichael-Brown,*[5] *("Carmichael-Brown")* and submitted that the duty was only on the applicant to ensure that a pre-trial conference was held within 10 days of the respondent's response, with the result that her failure to convene such a pre-trial conference, gave rise to a duty on her part to apply for condonation as envisaged in subrule 6(7) of the LC Rules. In *Carmichael-Brown,* Van Niekerk J held that:

> *'Rule 11 (3) has often been cited as* a *basis for applying the Uniform Rules into this court's practice and procedure. This court has recognised that in the absence of any Rule concerned specifically with exceptions, parties may, under Rule 11, have recourse to Rule 23 of the Uniform Rules (see, for example, Volscenck v Pragma Africa (Pty) Ltd (2015) 36 ILJ 494 (LC)). But this court has never gone so far as to suggest that parties are obliged or entitled to conduct litigation in this court on the basis of the Uniform Rules. It is clear from the formulation of Labour Court Rule 11 (3) that the Uniform Rules are not* a *form of default procedure in this court, nor is it open to litigants and their representatives to rely selectively on the Uniform Rules in the conduct of litigation in this court. Rule 11 (3) is permissive, and provides that the court (not the parties and their representatives) may sanction the use of* a *procedure not contemplated by the Rules when this is appropriate. In other words, Rule 11 (3) establishes* a *procedural mechanism for the convenience of the court. It is not an invitation to practitioners to invoke the Uniform Rules and conduct litigation in this court on the basis that the Uniform Rules apply.* [6]

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[5] [2018] 8 BLLR 804 (LC).
[6] *Carmichael-Brown* at para [13].

[21] I further directed the parties to the provisions of subrule 6(5) read with subrule 6(4)(d) of the LC Rules which places an obligation on the registrar to send the file to a judge in chambers when she receives the minutes of the pre-trial conference or *when the initiator of the proceedings failed to deliver the minutes of the pre-trial conference within 5 days of the conclusion of the pre-trial conference,* whichever event occurred first.

[22] Relying on paragraph 10.3.1 of the Labour Court: Practice Manual **("LC Practice Manual"),** counsel for the respondent was adamant that since the registrar did not send the file to a judge in chambers, the applicant had a duty to apply for condonation for failure to convene the pre-trial conference. I do not understand why the respondent blames the applicant for the registrar's failure to send the court file to a judge in chambers for directions as contemplated in subrule 6(5). Subrule 6(5) specifically reads as follows:

> *'When the minute of a pre-trial conference is delivered or the time limit for its delivery lapses, whichever occurs first,* ***the registrar must send the file to a judge of the court for directions in terms of this subrule.*** *The judge who receives the file from the registrar may:*
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> *(a) direct the registrar to enrol the matter for hearing if the judge is satisfied that the matter is ripe for hearing; or*
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> (b) ***direct that an informal conference be held before a judge in chambers to deal with any pre-trial matters;*** *or*
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> (c) *direct the parties to convene* a *further pre-trial formal pre-trial conference at* a *date, time and place fixed by the registrar, at which* a *judge must preside, to deal with any pre-trial matters.'* Own emphasis.

[23] I disagree with Adv. Van Der Westhuizen's submission that the applicant was supposed to have applied for condonation since the registrar failed to take the court

file to a judge in chambers for directions. Subrule 6(5) clearly placed an obligation on the registrar to take the file to a judge in chamber for directions on circumstances where the time limit for the delivery of the minute of the pre-trial conference had elapsed without it being filed, as it happened in this matter.

[24] Furthermore, paragraphs 10.4.3; 10.4.4; and 10.4.4.5 of the LC Practice Manual, provides that:

> 24.1 *'If a pre-trial minute is not filed within the prescribed time limit, or the pre- trial minute does not comply with the requirements of Rule 6(4)(b) or the provisions of clause 10.4.2 above as the case may be,* ***the registrar must set the matter down in the motion court for a formal pre-trial conference to be held before a judge.*** *Own emphasis*
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> 24.2 *A judge may issue an order in respect of filing of* a *pre-trial minute.* ***A failure to comply with such an order may result in the file being archived to be retrieved only on application, in which the applicant will be required to show good cause why the failure to comply with the order or directive of the judge should be condoned.*** *Own emphasis*
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> 24.3 *Once* a *pre-trial minute is filed, the court file is sent for directions to* a *judge in chambers. A judge may direct that* a *further and/or better minute be filed or that the matter may be set down for trial. The registrar must allocate* a *trial date as soon as possible (except for case managed matters) and notify the parties.'*

[25] In *Chemical, Energy, Paper, Printing, Wood and Allied Workers Union v CTP Ltd and Another,*[7] *("CEPPWAWU v CTP')* Mayburg AJ, referred to the SCA judgment in *MEG for Economic Affairs, Environment & Tourism, Eastern Cape v Kruizenga and Another*[8] *("Kruizenga'),* where the SCA dealt with the role and importance of

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[7] (JS 215/10) [2012] ZALCJHB 163; [2013] 4 BLLR 378 (LC); (2013) 34 ILJ 1966 (LC) (19 December 2012) at para [103].
[8] 2010(4)SA122(SCA)

Rule 37 pre-trial conference procedures and said:

> *'The rule was introduced to shorten the length of trials, to facilitate settlements between the parties, narrow the issues and to curb costs. One of the methods the parties use to achieve these objectives is to make admissions concerning the number of issues which the pleadings raise. Admissions of fact made at a rule 37 conference, constitute sufficient proof of those facts. The minutes of a pre-trial conference may be signed either by a party or his or her representative. Rule 37 is thus of critical importance in the litigation process.*[9]

[26] I further disagree with Adv. Van Der Westhuizen's submission that subrule 37(2)(b) of the HC Rules does not find application in this matter based on the *Carmichael-Brown* judgment. This judgment is distinguishable on the basis that it was dealing with Uniform Rule 23 pertaining to exceptions. Mayburg AJ in *CEPPWAWU v CTP* held that the findings made in relation to Rule 37 of the HC Rules by the SCA are equally applicable to subrule 6(4) of the LC Rules.[10]

[27] It is my view that parties in this Court can have recourse to subrule 37(2)(b) of the HC Rule because subrule 6(4)(a) of the LC Rules places an obligation on both parties when a response is delivered to hold a pre-trial conference, but becomes silent on how this obligation must be shared in practice. Subrule 37{2)(b) oomes to the assistance of the parties in this situation and specifically provides that: *"If the plaintiff has failed to comply with paragraph (a), the defendant may, within 30 days after the expiry of the period mentioned in that paragraph, deliver such notice."* It was open for the respondent in terms of subrule 6(4)(a) of the LC Rules when read together with subrule 37(2)(b) of the HC Rules to take steps to convene the pre-trial conference upon the applicant's failure to do so. Subrule 37(2)(b) of the HC Rules assists in the speedy resolution of disputes and makes clearly provisions as to when a respondent may take steps to convene a pre-trial conference.

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[9] *Kruizenga* at para [6].
[10] *CEPPWAWU v CTP* at para [104].

[28] It was ill conceived for the respondent to refuse to meaningfully engage with the applicant's request for a pre-trial conference, dated 6 May 2022 and to demand the intervention of the court in the manner that it ,demanded by prodding the applicant to bring a formal condonation application, thereby inviting unwarranted costs implications for the applicant in circumstances where it could have utilised subrule 37(2)(b) of the HC Rules and convened a pre-trial conference alternatively if the respondent was so *"frustrated"* by the applicant's delay in holding a pre-trial conference, it could have utilised subrule 6(5) of the LC Rules and requested the registrar to comply with the rule by taking the court file to a judge in chambers for directions.

[29] The registrar would have been obliged to take the court file to a judge in chambers and a judge would have issued an appropriate directions in terms of subrule 6(5)(a)-(c) of the LC Rules, which would have been a cost effective process. *In Fransch obo Fransch v Premier, Gauteng Province and Another,*[11] *("Fransch")* Adams J dealing with subrule 37(4) of the HC Rules, held that:

> ***'The remedy available to any party who is frustrated by a lack of co-operation or bona fides on the part of his opponent, is to request that the conference be held before the judge in chambers.'*** [12] Own emphasis.

[30] he applicant had cooperated with the applicant's request for a pre-trial conference, dated 6 May 2022 and agreed to holding a pre-trial conference at a convenient date, it would have been open to the respondent to record its frustrations and prejudice suffered as a result of the applicant's delaying conduct in the minute of the pre-trial conference. In this regard, both subrule 6(4)(b) of the LC Rules and subrule 37(6) of the HC Rules, make mention of items that must appear in a minute of the pre-trial conference and items that the parties must attempt to reach consensus on.[13] Of particular importance to these proceedings is subrule 37(6)(b) which provides that: *'if a party feels that such party is prejudiced because*

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[11] (2016/18040) [2018] ZAGPJHC 430; 2019 (1) SA 247 (GJ) (8 June 2018).
[12] *Fransch* at para [11].
[13] The items for consideration and consensus appear in subrule 6(4)(b)(i) to **(xvii)** of the LC Rules and in subrule 37(6) (a) to (l) of the HC Rules.

another party has *not complied with the rules of court, the nature of such non-compliance and prejudice,'* must appear in the minutes of the pre-trial conference.

[31] Furthermore, if the respondent had directed correspondence to the register as mentioned above instead of refusing to participate in the pre-trial conference, a judge in chambers might have utilised subrule 6(5)(b) and directed the parties to hold an informal conference before a judge in chambers to deal with any pre-trial matters. A judge in chambers would have been in a better position to make an appropriate costs order against a defaulting party in terms of subrule 6(6) of the LC Rules.

Non-compliance as contemplated in 6(7) of the LC Rules

[32] It is common cause between the parties that there was never a pre-trial conference *"convened"* in which the applicant nor the respondent, failed to attend.

[33] The word "convened" in subrule 6(7) is couched in the past tense. Meaning that for. there to be a non-compliance with subrule 6(4)(a) as contemplated in subrule 6(7), a pre-trial conference must have been convened by the applicant or respondent and **the applicant must have failed to attend.**

[34] In the event of a failure to attend a *"convened"* pre-trial conference, subrule 6(7) directs that the matter may be enrolled for hearing on the directions of a judge and a defaulting party will not be permitted to appear unless good cause has been shown by the defaulting party.

[35] Subrule 6(7) gives a discretion to a judge in chambers to enrol the matter for hearing in the case of non-compliance by either party, however, the question of non-compliance is not a matter for the exercise of a discretion by a court. It is an objective enquiry, the court must determine as a matter of fact or law, whether there has been indeed non-compliance with the rule concerned. In *Helen Suzman Foundation v Judicial Service Commission*[14] *("HSF v JSC"),* the

[14] (CCT289/16) [2018) ZACC 8; 2018 (4) SA 1 (CC); 2018 (7) BCLR 763 (CC) (24 April 2018).

Constitutional Court, per Madlanga J, said a 'court must determine - as an objective question of fact or law - whether there has been non-compliance.'[15]

[36] In *SG Bulk, A Division of Supergroup Africa (Pty) Ltd v Khumalo and Another,* [16] *("Khumalo")* the Labour Court said once a dispute has been referred in terms of subrule 6(1) of the LC Rules, it gets regulated by the rules and directives of the Labour Court and ned as follows:

> "... *In terms of rule 4 of the Labour Court Rules when* a *response is delivered, the parties to the proceedings* ***(applicant and respondent) are obligated to hold*** **a** ***pre-trial conference within 10 days of the delivery of the response. It is common cause in this matter that the parties failed to hold or convene*** **a** ***pre-trial conference.*** *Sub-rule (7) provides that if any party fails to attend* a *convened pre-trial conference* a *matter may be enrolled for hearing on the directions of* a *judge. In terms of sub-rule (5)* a *judge may direct the parties to hold* a *pre-trial conference.* ***Instead of requesting the registrar to enroll the matter for pre-trial conference before*** **a** ***judge, the applicant brought a rule 11 application seeking a 'dismissal.*** *That is inappropriate. Rule 11 is there to cater for situations not dealt with in the rules. The situation obtaining in this matter has been catered for in the rules.* [17]

<u>Conclusion</u>

[37] From the aforegoing, I find that it was inappropriate for the respondent to refuse to participate in the request for a pre-trial conference and to demand the applicant to bring this application before the applicant can proceed with the pre-trial conference.

[38] The respondent should have requested the ***"registrar to enroll the matter for a pre-trial conference before a judge,"*** as was held by, Moshoana J in

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[15] *HSF v JSC* at para [79].
[16] (J63/20) [2021] ZALCJHB 416 (13 May 2021).
[17] *Khumalo* at para [4].

Khumalo, instead of demanding the applicant to bring a costly condonation application, which has caused a further delay in the nnalisatio 0f this matter.

[39] In conclusion on the first question, I find that the applicant did not commit a non-compliance contemplated in subrule 6(7) of the LC Rules. There was never a pre-trial conference convened by either party in terms of subrule 6(4)(a) and there was never a pre-trial conference convened by the registrar in terms of subrules 6(5)(b), or 6(5)(c), which the applicant *'failed to attend',* thereby attracting a duty upon her to show good cause before she can proceed with this matter as envisaged in subrule 6(7) of the LC Rules.

[40] Since I have found that the applicant has not committed a non-compliance as contemplated in subrule 6(7) of the LC Rules, there is no need for her show good cause before she can proceed with pre-trial conference. Accordingly, I need not deal with the second question and this is the end of the enquiry.

Costs

[41] In the heads of argument the applicant did not seek costs and at the hearing of this matter, Adv. Sidaki submitted that each party should pay their own costs. On the other hand, Adv. Van Der Westhuizen sought an order for the dismissal of the application with costs.

[42] In *Long v South African Breweries (Pty) Ltd and Others; Long v South African Breweries (Pty) Ltd and Others,*[18] *("Long")* the Constitutional Court held that *'it is well accepted that in labour matters, the general principle that costs follow the result does not apply.*[19] It further held that the relationship between the general principle of costs and section 162 of the Labour Relations Act, 66 of 1995 was considered and settled by it in *Zungu v Premier of the Province of KwaZulu-Natal,*[20] wherein it held that:

[18] (CCT 228/20)[2021] ZACC 41; 2022 (1) BCLR 118 (CC); (2022) 43 ILJ 341 (CC) (12 November 2021).
[19] *Long* at para [27].
[20] [2018] ZACC 1; (2018) 39 ILJ 523 (CC); [2018] (6) BCLR 686 (CC).

'In this matter, there is nothing on the record indicating why the Labour Court ana Labour Appeal Court awarded costs against the applicant. Neither court gave reasons for doing so. It seems that both courts simply, followed the rule that costs follow the result. This is not correct. In the result, the Labour Court and the Labour Appeal Court erred in not following and applying the principle in labour matters as set out in Dorkin. The courts did not exercise their discretion judicially when mulcting the applicant with costs. This Court is therefore entitled to interfere with the costs award. Taking into account the-considerations of the law and fairness, it will be in accordance with justice if the orders of costs by the Labour Court and Labour Appeal Court ate set aside and each party pays his or her own costs."[21]

[43] I am mindful of the principles mentioned above when it comes to costs orders, and as such I give brief reasons for an order for costs in this matter as follows:

43.1 When the applicant's attorneys delivered a request for a pre-trial conference a year ago, the respondent refused to cooperate with the request by providing suitable dates for the pre-trial conference to be held it demanded the applicant bring a condonation application in circumstances where the applicant had not committed a non-compliance with the rules as contemplated in subrule 6(7) read with subrule 6(4)(a) of the LC Rules. Both parties in this case had not convened a pre-trial conference wherein the applicant failed to attend.

43.2 At the time the respondent refused to cooperate with the applicant's request for a pre-trial conference, the applicant was not barred from proceeding with the matter, the file had not been achieved by the Registrar and the applicant did not fail to comply with an order of this court as contemplated in paragraph 10.4.4 of the LC Practice Manual.

43.3 By refusing to cooperate and forcing the applicant to first bring a

[21] *Long* at para [28].

premature and unwarranted condonation application before she could proceed with the pre-trial conference was an abuse of a court process in circumstances where the respondent itself was guilty of non-compliance with the rules. As already stated above, when the respondent's attorneys complained of non-com pliance, the respondent had itself not delivered its response within the 10 days required in subrule 6(3)(c) of the LC Rules. It only delivered its response a month later contrary to what the rule provides;

43.4 The conduct of the respondent is not in line with the principle of speedy of resolution of labour disputes as aspoused in the LRA. I agree with Mkwibiso AJ in *NUMSA obo Mavuso v Mini Mega (PTY) Ltd t-a Rustenburg Engine Centre,*[22] wherein the court said:

> *'Such conduct contributes heavily to the backlog of cases awaiting* a *hearing in this Court and should be discouraged. A costs order will hopefully help discourage such conduct'*

[44] The refusal by the respondent to cooperate with the applicant in convening the pre-trial conference, has caused a further unnecessary delay in the finalisation of these proceedings. As a result a costs order against the respondent is warranted.

[45] In the premise, I make the following order:

Order

[1.] The respondent shall respond to the applicant's request for a pre-trial conference, dated, 6 May 2022, within 5 days of this Order.

[2.] The parties shall hold a pre-trial conference within 10 days of this Order.

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[22] (JR 1288/13) [2022] ZALCJHB 180 (4 July 2022).

[3.] If the matter is not settled, the parties shall draw up and sign the minutes of the pre-trial conference, dealing with the matters set out in subrule 6(4)(b).

[4.] The applicant shall file the minutes of the pre-trial conference within 5 days after the conclusion of the pre-trial conference.

[5.] The respondent shall pay the applicant's costs occasioned by this application.

Liziwe Xoliswa Dzai
Acting Judge of the Labour Court of South Africa

Appearances

For the Applicant:	**Adv. T.S. Sidaki**
Instructed by:	**De Klerk Van Gend Inc**
For the Respondent:	**Adv. G.L. Van Der Westhuizen**
Instructed by:	**Waldick Jansen Van Rensburg Inc**