REPUBLIC OF SOUTH AFRICA

IN THE HIGH COURT OF SOUTH AFRICA

GAUTENG DIVISION, JOHANNESBURG

CASE NO: 2023-074510

NOT REPORTABLE

NOT OF INTEREST TO OTHER JUDGES

NOT REVISED

04/08/23

In the matter between:

REGONA PROPERTIES (PTY) LTD	**FIRST APPLICANT**
REGONA PRODUCTS (PTY) LTD	**SECOND APPLICANT**

and

THE CITY OF JOHANNESBURG METROPOLITAN MUNICIPALITY	**FIRST RESPONDENT**
THE MUNICIPAL CITY MANAGER: THE CITY OF JOHANNESBURG	**SECOND RESPONDENT**

JUDGMENT

DU PLESSIS AJ

Background

[1] This is an urgent application to compel the First Respondent to reconnect the Second Applicant's electricity supply on an urgent basis and to compel the First Respondent to perform its obligations in terms of the Municipal Systems Act, as well as the City of Johannesburg: Standardisation of Electricity by-laws ("the Electricity by-laws") as well as the City of Johannesburg: Credit Control and Debt Collection By-laws of 2005 ("the Credit Control and Debt Collection by-laws").

[2] The First Applicant is the registered owner of the property on 1 Short Street, Booysens, Johannesburg. As owner it utilises the property for commercial purposes and rents it to the Second Applicant. As registered owner and landlord, it is responsible for servicing the rates on the property under account 502109668. This account is not the subject of this urgent application.

[3] The Second Applicant is a manufacturer of various steel products. The Second Applicant is supplied with electricity under account number 220042648 with meter number 99633076. The address of the building is 37 Wepener Street, corner of Short Street. The Applicants point out that the address on the Second Applicant's electricity bill is reflected as 22 Langford Street, Booysens, not the same address as the property. The First Respondent never changed the address to reflect the correct address.

[4] The First Respondent is the City of Johannesburg ("COJ"), a local municipality as per the Constitution, as well as the Local Government: Municipal Systems Act 32 of 2000 ("the Municipal Systems Act") and the Local Government: Municipal Structures Act ("the Municipal Structures Act") 117 of 1998. The Second Applicant is Mr Floyd Brink.

[5] The Second Respondent is cited as the municipal manager, with the authority and obligation to ensure that First Respondent complies with its obligations.

[6] For ease of reference, where I refer to both applicants, they will be referred to as "the Applicants", and the First Respondent as "the COJ".

Facts

[7] The dispute's history is set out in the Founding Affidavit. The First Applicant as owner, lease the property based on an agreement with the Second Applicant. In terms of the agreement, the Second Applicant must pay the service charges of the property, while the First Applicant must pay the rates. The First Applicant must ensure that the Second Applicant enjoys the uninterrupted full use and enjoyment of the property, while the Second Applicant may use it for its intended purpose, which includes operating a business.

[8] Around 2017 the Second Applicant disputed the electricity charges to the property and raised a dispute with the COJ. They were allocated the reference number 8003496840, and CSV downloads were to be provided of meter 99633076 to enable a bill rerun and statement and debatement on the account. The Second Applicant disputed these charges, as it installed fully calibrated check meters on the property to measure their actual electricity consumption, with their meters recording far lower usages than what the COJ charged.

[9] In 2017, after raising the dispute, the Second Applicant started managing the account by paying the COJ based on the actual consumption measured by the check meters. The Second Applicant contested the charged amount, specifically the disputed portion of the account.

[10] Additionally, around 26 September 2019, the Second Applicant requested a change in the electricity supply tariff. This has not been actioned or implemented for reasons unknown. The Applicants then appointed Mr Tommy Cornelius, an expert, to help with the dispute with the COJ. Mr Cornelius made various attempts to resolve the dispute and process the tariff change, with no luck.

[11] In November 2022, a pre-termination notice was served. The Applicants sent a Letter of Demand to the COJ regarding this on 18 November 2022. The COJ flagged the account pending the resolution of the raised dispute. Despite the flagging and repeated requests for CSV downloads, for the tariff change to be implemented retrospectively, and for a bill rerun to be conducted, the COJ served

a second pre-termination notice in April 2023. They served this on a neighbouring property, the Langford address, and not the address of the Second Applicant (although addressed to them). The neighbour thus brought the notice to the attention of the Second Applicant. This prompted Mr Cornelius to attend the offices of the COJ again to ensure that there would be no termination, and the account was again flagged pending the resolution of the dispute.

[12] The Applicants state that they have installed smart meters to generate monthly reports showing the excessive charges that the COJ levies on the property. They have provided the COJ with these reports in various meetings. Apart from the excessive charges is the issue of the tariff change, which, if applied retrospectively, should result in a credit to the account.

[13] The Applicants state that despite laying a formal dispute in terms of s 11 of the Credit Control and Debt Collection by-laws, the COJ failed to comply with its obligations as provided for in s 11(5) and has to date not sent a technician to the premises to read the meters and has not provided the CSV downloads despite being requested to do so repeated. It has also not applied the tariff change. The dispute is, they state, simply being ignored. It has never been attended to, especially not within the 14 days laid down in s 11(5) of the Credit Control and Debt Collection by-laws.

[14] The Second Applicant continued to service its account on the undisputed portion of the charges. The arrears on the account is the disputed portion of the charges plus interest.

[15] The disconnection of the electricity supply between 13:00 – 14:00 on 25 July 2023 triggered the launching of this urgent application. Once disconnected, the Second Applicant and Mr Cornelius called the COJ and asked them to restore the electricity, showing them the letter of demand with reference numbers and an allocated dispute. The COJ agent refused to reconnect, stating they did not care; they were simply doing their job. The Second Applicant then sent the COJ a formal letter of demand stating that should they not restore the electricity, and they would approach the urgent court for relief, and costs will be sought against the COJ.

[16] The Applicants state that the disconnection happened while no pre-termination notice was served on them. There were no warning notices before termination, they were never afforded the 14-day period to make the written representations in accordance with s 7 of the Credit Control and Debt Collection by-laws, and the disconnection happened while there is a formal dispute raised and the account flagged since 2019 (and about ten times after that, at a cost for the Second Applicant).

[17] They state that the COJ thus failed to follow the correct administrative procedures and comply with its statutory prescribed administrative obligations. They say that the termination is accordingly unlawful, that Second Applicant continued to service the account on the undisputed amount, and that they are entitled to the continuous supply of electricity and to not be cut off without COJ following due process.

[18] The Second Applicant operates a commercial business that relies on electricity and incurs daily losses while the electricity supply is terminated, which has a possible impact on the staff. Running the business on a generator is too expensive.

[19] The COJ answer the following: the COJ has an obligation to collect revenue, and part of that obligation includes disconnecting consumers who are not paying for their services. The second Applicant's account shows that it currently owes R361 124,54. They state in the affidavit that "[i]t appears that […] the Second Applicant only paid an amount of R32 549,27 [..] despite the Applicants consuming the services". This is with reference to the actual charge of R48 974,94 to the account. The COJ states that "[i]t is evident therefore that the Applicants pay less than […] the actual amount owing and due to the Respondent". They state that the Second Applicant receives invoices of the actual reading of the consumption and has consistently been paying short.

[20] Since they receive services they are not paying for, the COJ states that they approach the court in bad faith and unclean hands. Instead of proposing a payment plan and tendering an amount to be reconnected, they seek a reconnection and an interdict "against the implementation of the by-laws".

However, they are mindful of s 102 of the Local Government Municipal Systems Act, which provides that a municipality may not terminate services where there is a dispute, and then states that they are mindful "that the word dispute was defined by the Supermen [sic] Court of Appeal, and that remains the applicable law". The Second Applicant is, therefore, not entitled to reconnection without paying the total amount outstanding.

[21] They also state, citing case law, that the court must be hesitant to grant a temporary restraining order pending a review as it might interdict the authority from exercising a duty that the law has vested in the authority. In short, they state that the Applicants cannot obtain the final interdict they seek.

[22] The COJ further states that they served the notice attached to the property and states that the Applicants say that they have been making payments towards the consumption when they have not made such payments.

[23] As for the urgency, the COJ states the Applicants did not say why they cannot pay for the services to reconnect the services, after which they can challenge the rights they allege they are entitled to. This is their alternative remedy.

[24] The last pre-termination notice was in May 2023, the services terminated on 25 July 2023, and the application was served on 27 July 2023, giving an organ of state less than 24 hours to reply. The urgency, they state, is not on the termination but upon receiving a pre-termination notice. This, together with the fact that they dragged the COJ to court when it was only enforcing the law, the COJ avers it is entitled to punitive costs.

[25] Regrettably, the COJ does not address the dispute other than denying that the accounts are flagged. It does not inform the court what it did from its side to resolve the dispute, for which it allocated a reference number. It does not say why a technician was never sent out nor why it has not sent the CSV downloads. It does not say why it disconnected the electricity despite flagging the account. It is thus impossible for the court to assess if it was "only enforcing the law".

[26] In reply, the Applicants state that they should not be forced to a payment arrangement by an unlawful termination when the COJ did not follow the dispute resolution process in the by-laws. The COJ is also not entitled to the payment of the disputed portions when a dispute has been formally raised, where there is the monthly report that sets out the actual readings of the consumption, with the Second Applicant making payment on those actual readings.

[27] As for granting an order against the state, the Applicants aver that they have a right to fair administrative processes and that the Respondents have to comply with their obligations as per statute. This includes following the fair dispute resolution mechanism and complaints procedures.

[28] They disagree that the urgency commenced in May 2023 and state that it commenced with the termination of the electricity service. The urgency arose from the unlawful termination of the services.

Ad urgency

[29] I am satisfied that the Applicant has made out a case for urgency. While I take note of Wilson J's *Volvo Financial Services Southern Africa (Pty) Ltd v Adamas Tkolose Trading*[1] judgment of 1 August 2023 that there are no "inherently urgent" matters (as the Applicants contended), I do agree with the Applicants that this matter is urgent, seen explicitly in light of their historical attempts to have this matter resolved to avoid precisely this situation.

[30] There have already been some delays in the urgent court, with the matter set down in the urgent court the previous week and my colleague Wilson J allowing it to roll over to the next week for a hearing due to a typographical error on the notice of motion. It was finally placed on my roll and heard on 2 August. This was a week after the electricity supply was terminated, rendering the matter even more urgent.

---

[1] [2023] ZAGPJHC 846

[31] I requested that heads of argument be sent and uploaded to caselines by 9 am on 2 August. Counsel for the COJ, Mr Sithole, did not adhere to this directive. I proceeded to hear the matter with only the Heads of Argument of the Applicants as guidance as I deemed it urgent. Mr Sithole raised various arguments and cited case law that the Applicants did not have adequate time to prepare for. I thus directed Mr Sithole to file his Heads of Argument by 10 am the following day and for Ms Darby (for the Applicants) to file any supplementary heads by 4 pm.

[32] Having found that the matter is urgent, I now proceed to the point in limine raised.

Ad point in limine: service

[33] The Applicants aver that since the service was not on the correct property, there was no proper service, making the termination unlawful. They say the service was on 22 Langford Road, but then the disconnection occurred on 1 Short Street.

[34] I do not wish to dwell too much on this point, save to say that on its version, the Applicants state that a pre-termination notice was served on a neighbouring property but addressed to the Second Applicant and that this neighbour brought it to their attention.[2] This is because the "First Respondent has not bothered to correct" the incorrectly reflected address of 22 Langford Street reflected on its address.[3] In their heads of argument, they state that they have raised this issue with the COJ, but the COJ has failed to correct it. After receiving the pre-termination notice, Mr Cornelius attended the offices of the COJ to reflag the account. The disconnection notice was also served on 22 Langford Street, indicating the disconnection of the electrical supply.

[35] I am satisfied that on these facts and in this case, the Applicants knew of the impeding termination of the services and that the disconnection occurred based on the statement for the Second Respondent with the incorrect address. I emphasise

---

[2] FA para 38 and 39.

[3] FA para 10.

that this is on the particular facts that this application relies on. It should not be regarded as a general rule, and it shows how important the invoices are to reflect the correct address.

Statutory framework of the First Respondent's duties

[36] The duties of the COJ as far as municipal services are concerned are set out in s 73 of the Municipal Systems Act. It provides that:

> 73. General duty.—(1) A municipality must give effect to the provisions of the Constitution and—
>
> (a) give priority to the basic needs of the local community;
>
> (b) promote the development of the local community; and
>
> (c) ensure that all members of the local community have access to at least the minimum level of basic municipal services.
>
> (2) Municipal services must—
>
> (a) be equitable and accessible;
>
> (b) be provided in a manner that is conducive to—
>
> (i) the prudent, economic, efficient and effective use of available resources; and
>
> (ii) the improvement of standards of quality over time;
>
> (c) be financially sustainable;
>
> (d) be environmentally sustainable; and
>
> (e) be regularly reviewed with a view to upgrading, extension and improvement.

[37] Chapter 9 of the Municipal Systems Act provides for credit control and debt collection. S 95 provides for Customer Care and Management, providing for

> 95. Customer care and management.—In relation to the levying of rates and other taxes by a municipality and the charging of fees for municipal services, a municipality must, within its financial and administrative capacity—
>
> (a) establish a sound customer management system that aims to create a positive and reciprocal relationship between persons liable for these payments and the municipality, and where applicable, a service provider;
>
> (b) establish mechanisms for users of services and ratepayers to give feedback to the municipality or other service provider regarding the quality of the services and the performance of the service provider;
>
> (c) take reasonable steps to ensure that users of services are informed of the costs involved in service provision, the reasons for the payment of service fees, and the manner in which monies raised from the service are utilised;
>
> (d) where the consumption of services has to be measured, take reasonable steps to ensure that the consumption by individual users of services is measured through accurate and verifiable metering systems;

(e) ensure that persons liable for payments, receive regular and accurate accounts that indicate the basis for calculating the amounts due;

(f) provide accessible mechanisms for those persons to query or verify accounts and metered consumption, and appeal procedures which allow such persons to receive prompt redress for inaccurate accounts;

(g) provide accessible mechanisms for dealing with complaints from such persons, together with prompt replies and corrective action by the municipality;

(h) provide mechanisms to monitor the response time and efficiency in complying with paragraph (g); and

(i) provide accessible pay points and other mechanisms for settling accounts or for making pre-payments for services.

[38] S 98 of the Municipal Systems Act authorises the passing of the necessary by-laws to give effect to the credit control and debt collection policy – also to implement and enforce it. The by-laws applicable here are the Electricity and Credit Control and Debt Collection by-laws.

[39] S 9 of the Electricity by-laws provides for the rendering of accounts, consumers' right to dispute the accounts rendered, and the obligation on the municipality to take actual readings as soon as possible, and as close as possible to 30 days. The by-law also provides for the circumstances when a consumer has not been charged or was charged incorrectly in s 9(7). It states that the Council must conduct such investigations, enquiries and tests it deems necessary. They shall adjust the account accordingly once satisfied that a customer has been charged incorrectly.

[40] S 12 of the Electricity by-laws provides for testing the meter's accuracy if a consumer or owner has reason to believe that the meter is not registering correctly and has notified the Council that the meter should be tested. S 12(5) provides for the adjustment of a statement of account if it is found that the meter was over or under registering.

[41] S 13 of the Electricity by-laws provides for circumstances where the meter fails to register correctly. S 13(2) provides that if it can be established that the meter has been registering incorrectly for longer than three months, then the consumer will be charged an amount determined in terms of s 13(1).

[42] The Credit Control and Debt Collection by-laws provides s 7(1) states that the Council (of the COJ) may, subject to compliance with the provisions of that by law and any other applicable law, by notice, in writing of no less than 14 days to the consumer, terminate the agreement for the provision of the municipal service concerned, among other things, when the customer has failed to pay any prescribed fee or arrear due and payable. S 7(2) then allows a customer to, within 14 days of such a notice, make written representations to the Council on why the service should not be terminated. If the representation is unsuccessful, it may only be terminated if the decision on such representations justifies it.

[43] The Credit Control and Debt Collection by-laws provides s 10 for account administration, including an obligation on Council to ensure accurate meter consumption.

[44] The Credit Control and Debt Collection by-laws provides s 11 that a customer may lodge a query of complaint in respect of the accuracy of an amount due and payable. The following is then important for purposes of this case.

> (3) If a query or complaint contemplated in subs (1), is lodged
>
> a) before the due date for payment specified in the account concerned, an amount at least equal to the average amount that was due and payable in respect of rates or the municipal service concerned, as specified in the accounts for the preceding three months which are not in dispute, must be paid by the customer concerned before or on such due date; or
>
> (b) after the due date for payment specified in the account concerned, such query or complaint must if the full amount in dispute has not been paid, be accompanied by at least the amount contemplated in paragraph (a); and
>
> (c) before or after the due date for payment specified in the account concerned, the customer concerned must pay the full amount of any account, insofar as it relates to rates or the municipal service concerned, rendered in respect of a subsequent period, before or on the due date for payment specified in such account, **except insofar as that account may incorporate the amount in dispute. [own emphasis]**

[45] The query must then be registered, and a reference number allocated. The Council must then investigate the query within 14 days or as soon as possible after the query or complaint is received. It must then, in writing, inform the customer of its decision as soon as possible after the conclusion of the investigation. Any amount due and payable after such an investigation must be paid within 21 days.

[46] The Applicants seek an order to compel the Respondents to comply with their obligations in terms of these provisions.

[47] The COJ relied on a Credit Control and Debt Collection Policy of 2022 and not the 2005 by laws. This led to some confusion during the hearing, and I invited counsel to file supplementary heads on how I should deal with the by-law vis-a-vis the policy.

[48] Ms Darby for the Applicant explained as follows: The Municipal Systems Act in s 97 provides for a policy to provide for procedures and mechanisms of credit control and debt collection. S 98 provides for by-laws to give effect to this policy. It seems that the by-laws are to give effect to the policy. To that effect, the by-laws specifically indicate in s 29 that "[i]f there is any conflict between the provisions in this by-law and a provision of any other by-law of the Council, the provisions of this by-law prevail". This is in line with the rules of statutory interpretation relating to the hierarchy of legislation, where superordinate legislation (ie by-laws) in conflict with subordinate legislation (ie policy) will always prevail. I agree with this understanding, and therefore, the by-law applies to this dispute.

[49] The COJ does not fundamentally differ from this but argues that both apply and insofar as the by-law does not set out the procedural steps to be taken if the municipality fails to make a decision, the policy should be followed. They relied on paragraph 16 of the policy setting out the specific procedures to be followed when lodging a dispute. The policy is dated 2022, and the dispute commenced in 2017. Even so, from reading the paragraph, I could not find anything that entitles the COJ in this case to disconnect the electricity. Moreover, where there is a conflict, the by-laws prevail.

[50] The COJ also states that the Applicant should have followed their remedies in terms of PAJA to review the failure to decide the COJ. They do not address whether the Applicants would in such circumstances be entitled to withhold the disputed amount as it did.

[51] As to the meter reading, the COJ states that "Tax invoices supplied to the Applicants by the Respondents are all the actual reading of the consumption and that in the event where the Applicant is of the view that […] the metre does not read correctly, the Applicants could have invoked the provisions of s 12 of the […] Electricity by-law and seek for a meter testing". It seems as if the COJ, wilfully or otherwise, fails to grasp the issue in dispute. They insist that they charge based on the actual readings. The Applicants, however, make it clear that they think that these actual readings are inaccurate and that they are being over-charged and have installed their own meters to measure consumption. They lodged a dispute in line with s 12 of the Electricity by-law quoted by the COJ for which they have received the reference number 80034968. That is the essence of the dispute: whether the actual readings are accurate and the COJ's failure to investigate the dispute to bring it to some sort of finality. The COJ further knows about this dispute. Regrettably, again wilfully or otherwise, the COJ did not engage with this issue in their replying affidavit.

[52] The Applicants have also not been avoiding payment – they have made payment based on those meters while informing the COJ and waiting for the COJ to investigate the dispute. They have just not paid the amount in dispute, as provided for in s 11(3) of the Credit Control and Debt Collection by-laws.

[53] The Applicants are also correct in stating that once they have flagged the issue of possible inaccurate readings of the meters, the onus is on the City to show that the meter readings are correct. A consumer, raising a bona fide dispute concerning the services delivered by the City, cannot be responsible to prove the correctness of the meters belonging to the COJ.[4] Until that onus is discharged, the COJ cannot rely on the billing based on the possible inaccurate readings, and the Applicants are not obliged to pay *the disputed amount* (although they are expected to pay the amount not in dispute, which they did).

---

[4] *Euphorbia (Pty) Ltd t/a Gallagher Estates v City of Johannesburg* 2016 JDR 1309 (GJ).

[54] The COJ thus failed to follow their own by-laws, most notably s 12 of the Electricity By-laws. They have also failed to provide the Applicants with CVS downloads as requested in terms of s 11 of the Credit Control and Debt Collection By-laws. It has been unable to show how it dealt with the dispute raised by the Applicants, even after it flagged the account. Despite all this, the COJ persisted that it is entitled to terminate the electricity supply, as it is obliged to do in terms of s 7 of the Credit Control and Debt Collection By-laws.

[55] The COJ also raises the question of whether a "dispute" exists. They rely on *Body Corporate Croftdene Mall v Ethekwini Municipality*[5] regarding the dispute. In that case, the appellant, a property owner, had two accounts with the respondent municipality. One account was in the appellant's name for water, electricity, and refuse removal, while the other account for municipal rates was in the name of the now-liquidated developer, Croftas Company. The municipality combined both accounts, both of which were in arrears. The appellants requested that the debts be written off, which requests were declined. The water and electricity was disconnected, and the appellant sought an urgent interdict to prevent the disconnection of water and electricity, claiming a dispute under s 102(2) of the Municipal System Act, particularly regarding the municipality's power to consolidate accounts. However, the High Court, and later the SCA, dismissed the appeal with costs after finding no evidence to support the appellant's claims. The court found that the Municipality is entitled to cut the services if the amount reflected on the account was not paid. But importantly, the court stated that a consumer who disputes the amount must make a written representation to the respondent's chief financial officer stating the reasons, which in that case, the appellant owner did not do. It merely objected, in general terms; what the dispute was, was not properly identified. The appellant merely asked for the arrears to be written off, and thus the court found no dispute.

---

[5] 2012 (4) Sa 169 (SCA).

[56] This is fundamentally different from what is happening here. The Applicants installed their own meters to measure consumption to show the COJ that they were being overcharged. They lodged a dispute, and they appointed a person to follow up with the COJ. They went to the office when they received a pre-termination notice. They were allocated a reference number for the dispute. They did all they possibly could to show the COJ why they think they were overcharged. It was, and still is, up to the COJ to go to the premise, to test the meter, and if they disagree, to give convincing reasons why. The Applicants did not try and evade their obligation to pay for the electricity. They continued to pay based on their meter readings while continuing to engage with the COJ. It is clear what is in dispute: the charges of the meter reading of the COJ minus the meter readings of the Applicants. If they were *mala fide,* they would have stopped paying all together, objecting in general terms, which in turn would have entitled the COJ to terminate the services.

[57] They also rely on *39 Van der Merwe Street Hillbrow cc v City of Johannesburg Metropolitan Municipality*[6] where Dodson AJ stated:

> [27] Croftdene Mall thus imposes the following requirements before a consumer of municipal services may rely on the protection from disconnection afforded by s 102(2) of the Systems Act:
>
> 27.1 there must be a dispute, in the sense of a consumer, on the one hand, and the municipality, on the other, advancing irreconcilable contentions;
>
> 27.2 the dispute must be properly raised, which would require, at least, that it be properly communicated to the appropriate authorities at the municipality and that this be done in accordance with any mechanism and appeal procedure provided in terms of s 95(f) of the Systems Act for the querying of accounts;
>
> 27.3 the dispute must relate to a specific amount or amounts or a specific item or items on an account or accounts, with the corollary that it is insufficient to raise a dispute in general terms;
>
> 27.4 the consumer must put up enough facts to enable the municipality to identify the disputed item or items and the basis for the ratepayer's objection to them;
>
> 27.5 it must be apparent from the founding affidavit that the foregoing requirements have been satisfied.

[58] The question is then if all five requirements have been satisfied. Mr Sithole for the COJ, in his Heads of Argument states that "I respectfully contend that on the three

---

[6] Case no 23/7784 GJ judgment.

complaints raised by the Applicant, none of them meet the test set out above", but, unfortunately, he does not indicate how he gets to that conclusion.

[59] It is clear that the Applicants satisfied these five requirements, and I give short reasons why I say this:

i. There is a long-standing dispute with reference numbers, with the Applicants employing Mr Cornelius to follow up on this dispute through the years. There is no indication that the COJ attended to the dispute by either accepting the Applicant's contention or rejecting it with reasons. There is, therefore a dispute.

ii. The Applicants stated what steps they have taken to raise the dispute, indicating that it has a reference number and that the account has been flagged numerous times. The COJ does not deny this or offer any other evidence or argument that this was not the proper in terms of the legislation. The Applicants thus complied.

iii. The amount in dispute is determinable: the Applicant pays the difference between the consumption invoiced by the City and the consumption measured by its own meters.

iv. The Applicants put up enough facts for the municipality to know the nature of the dispute and to enable them to investigate it sufficiently by sending out people to test the meters.

v. All this is set out in the founding affidavit.

[60] As with many other cases dealing with s 102(2) of the Municipal Systems Act, this case concerned consumers who paid nothing while lodging a dispute, quite rightly raising the alarm about the possibility of consumers to submit disputes to evade payment. The consumer must furnish facts to enable the municipality to ascertain or identify the disputed item or items and why the ratepayer objects. This is not the case here.

[61] The COJ advancing its argument in its heads of argument that they are carrying out its statutory duty is incredulous. Had they carried out their statutory duty to investigate the dispute, all this could have been avoided. They are entitled to disconnect services if non-payment is not in dispute. But if there is a bona fide dispute lodged, and if the customers complied with their end of the bargain by paying the reasonable amounts not in dispute, it is expected that the COJ keep their end of the bargain by investigating the dispute that they are clearly aware of and resolving it in line with the by-laws and policies.

Relief

[62] There is a long-standing dispute between the parties, and the Applicants have attempted numerous times to have the dispute settled between themselves and the COJ. They have not received electricity for free. They have been paying what they deem to be the correct amount based on their meter readings. They dispute the estimates of the COJ and require that a technician looks into the matter so that the accounts can be correct and they can pay the full account based on the correct meter reading. This is not even touching on the issue of the tariff change.

[63] The Applicants ask for interdictory relief. They have a right to receive electrical supply to property in terms of s 73 of the Municipal Systems Act, provided that they comply with the legislation, including the by-laws, which they did. These rights have been infringed upon by unlawful termination pending the outcome of the dispute. The Applicants have already tried all they could do, and granting an interdict is the only remedy to restore their electricity supply.

[64] As to costs, I agree with the Applicants that they have followed all the avenues in the by-laws available to have the dispute addressed by the COJ. After the pre-termination letter was served, they again went to the offices of the COJ and their account was flagged. Despite that, they were still disconnected, forcing them to approach the urgent court for relief. Their founding affidavit was not met with an honest engagement of the issues. I do find that they are therefore entitled to punitive costs.

[65] An urgent court is not the place to solve intricate disputes, and most often only makes an order to solve an urgent issue in the interim to create a space for the parties to either solve their problem without recourse to the courts again or to prepare for a proper case to be heard in due course. Some prayers in the notice of motion were not touched on in the affidavits or in argument, such as the damage to the doors. I have disregarded the prayers not addressed in the affidavits and in argument, but I do not find that disregarding those prayers invalidates the others asked.

Order

[66] I, therefore, make the following order:

1. The forms and service provided for in the Uniform Rules of Court are dispensed with, and it is directed that the application be enrolled and heard as one of urgency in terms of Uniform Court Rule 6(12).

2. The First Respondent is directed to immediately, upon the granting of this order, restore the electricity supply at 1 Short Street, Booysens, under account 220042648 and is ordered not to disconnect the electricity pending the resolution of the Applicants formal dispute under reference number 8003496840.

3. To First Respondent is directed to, within 7 (seven) days of this order, provide the CSV download or actual reading of meter number 99633076 to the First and Second Applicant.

4. The First Respondent is hereby directed within 7 (seven) days of the order, to consider the request for the change in tariff applied for on 26 September 2019 from Industrial to Business and, should it affect such tariff change, to apply it retrospectively from 26 September 2019 and conduct a bill rerun on account 220042648 based on this new tariff.

5. In the case of there being a discrepancy between the actual readings and the readings of the First Respondent to date, the First Respondent is hereby directed within 14 (fourteen) days of the order to conduct a bill rerun on account 220042648

6. In the case of any changes in either the tariff or the readings or both, the First Respondent is hereby directed within 30 (thirty) days of the order to attend at a statement and debatement of account 220042648.

7. The First Respondent must pay the costs of this application on an attorney and client scale.

_____

WJ DU PLESSIS

Acting Judge of the High Court

Delivered: This judgement is handed down electronically by uploading it to the electronic file of this matter on CaseLines. It will be sent to the parties/their legal representatives by email.

Counsel for the applicant:	Ms FA Darby
Instructed by:	Michael Herbst Attorneys
Counsel the for respondent:	Mr E Sithole
Instructed by:	Mojela Hlazo Practice
Date of the hearing:	02 August 2023
Date of judgment:	04 August 2023