

Sneller Verbatim/DM

IN THE LABOUR COURT OF SOUTH AFRICA

BRAAMFONTEIN

CASE NO: J3592/01

DATE: 2002-08-02

In the matter between

SPEARPOINT BOW TOOLS CC

Applicant

and

1ST Respondent

2ND to further Respondents

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J U D G M E N T

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REVELAS J.:

1. On 18 December 2001 the Labour Court made an order in terms of which Spearpoint Bow Tools CC was joined as a party in the proceedings between A Vula and 7 Others, the applicants, and Spearco Tools CC.
1. 1. 2. Spearpoint Bow Tools CC now applies for rescission of that order joining it as a party for, *inter alia*, the following reasons. Spearco Tools CC, the actual

former employer of the employees against whom an arbitration order was obtained, was liquidated on 6 March 2001; it is a separate legal entity and was never an employee of the employees. In my view, these considerations are not applicable as grounds to rescind an order, but what is quite plain, and that is also stated in the founding affidavit, is that the respondent, Spearpoint Bow Tools CC, was absent from the proceedings due to the fact that only the applicant was advised of the date of hearing of the matter and not any of the respondents.

3. In these circumstances the order should be rescinded.
4. I make it plain that I make no finding as to the liquidity or the question as to who the real employer was; that would be to interfere with the judgment of Jammy AJ, whose finding may only be overturned on appeal. I therefore make it plain that this order was granted because the respondents were absent due to the failure on the part of the registrar to notify the parties.

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E. Revelas