

# **THE LABOUR COURT OF SOUTH AFRICA, JOHANNESBURG**

Not Reportable  
Case no: J 223/22

In the matter between:

**MEDAL PAINTS (PTY) LTD**

**Applicant**

and

**LINDY RAYNARD AND OTHERS**

**Respondents**

**Heard: 31 March 2022**

**Delivered: 5 May 2022**

**Summary: An unopposed application to stay the enforcement of an arbitration award – requests for reasons and the appealability of the order.**

## **REASONS**

**MOSHOANA, J**

### Introduction

- [1] On 31 March 2022, in the urgent Court, this Court adopted a draft order, which was submitted to it unopposed. Now the Court is faced with a strange request for the reasons of the said order. Inasmuch as every litigant is entitled to be provided with reasons for a Court order<sup>1</sup>, it seem to be an abuse of judicial resources to request reasons where the order was granted on an unopposed basis or by default. The practice is that a party becoming aware of an unopposed Court order emanating from the

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<sup>1</sup> *Mphahlele v FNB of South Africa* 1999 (2) SA 667 (CC).

urgent Court may urgently apply for the rescission of the order and where there is a return date anticipate it. An appeal is not an appropriate procedure, in the circumstances where a Court issues a default order.

### Reasons for the order

- [2] In terms of section 145 (3) of the LRA, this Court is empowered to stay an enforcement of an arbitration award pending its decision. It was common cause that Medal Paints (Pty) Ltd (Medals) launched a review under case number JR 276/22 seeking to review and set aside an arbitration award issued on 24 January 2022. The review application pends the decision of this Court. The pending decision may either review and set aside the arbitration award or confirm it. That notwithstanding, on 1 February 2022, Ms Lindy Raynard (Raynard), through her attorneys intimated that a writ of execution shall be issued in order to execute the arbitration award.
- [3] This action had the potential of causing Medals an irreparable harm should the arbitration award be reviewed and set aside by this Court. Owing to that on 3 February 2022, Medals through its attorneys of record implored Raynard and her attorney not to proceed with the enforcement steps since a review application is pending. Raynard ignored the implore.
- [4] An application to stay enforcement is more like an interim interdict<sup>2</sup>. The Court was satisfied that the requirements of an interim interdict were shown to exist and the order sought was warranted. The lifespan of the order granted is until the determination of the review application. In requesting for these reasons, Raynard indicated that her intention is to appeal<sup>3</sup>. Section 173 (1) (a) of the LRA, provides that the Labour Appeal Court is empowered to hear and determine all appeals against the final judgments and the final orders of the Labour Court. Thus, an interim

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<sup>2</sup> *Gios t/a Shakespeare's Pub v Van Zyl and others* [2003] 11 BLLR 1176 (LC)

<sup>3</sup> Letter addressed to this Court on 29 April 2022 states "*Our instructions are to appeal the order. Thus, we request urgent written reasons for the order.*"

interdict is not final in nature. After the decision on the review application, its life terminates. It is for these reasons that this Court stated earlier that the request for these reasons constitutes an abuse of judicial resources and processes.

[5] With regard to a costs order, Medals sought costs *de bonis propriis* against Marweshe attorneys. Further Medals sought costs if there was opposition. This Court was not satisfied that a *de bonis propriis* is warranted. Mr Mahomed, appearing for Medals pressed on the issue of costs for reasons that had Raynard and her attorney heeded the implore not to persist with execution; the application would have been obsolete. When it comes to costs, this Court is possessed with a wide discretion. In making an award of costs, this Court in its discretion may take into account the conduct of the parties. The conduct of Raynard and her attorney to persist with execution notwithstanding the pending review application was one that is unreasonable and unwarranted. Owing to the fact that the application stood unopposed, this Court made an order of normal costs on an unopposed scale.

[6] It was for all the above reasons that the order of 31 March 2022 was issued by this Court. In conclusion, this Court maintains that the request for reasons was unnecessary.

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G. N. Moshwana  
Judge of the Labour Court of South Africa

Appearances:

None