

Sneller Verbatim/JduP

IN THE LABOUR COURT OF SOUTH AFRICA

BRAAMFONTEIN

CASE NO: J5861/00

2001.10.17

In the matter between

Applicant

and

1st Respondent

INDUSTRY BARGAINING COUNCIL GREATER

NORTHERN REGION

2nd Respondent

3rd Respondent

4th Respondent

J U D G M E N T

LANDMAN, J: Two employees who had been dismissed referred a dispute to the CCMA. The employer was wrongly cited and the employees thereafter referred a second dispute to the Commission. The matter came before a Commissioner. The Commissioner accepted an affidavit by the two employees, presumably as an application for condonation, although it did not set out all the matters which should be set out in an application for condonation. A request was made by the employer for permission to deal with that affidavit. This was denied. The Commissioner went on to condone the application for condonation. Thereafter this application for review was launched.

It is quite clear that the Commissioner committed a gross irregularity by not allowing the employer an opportunity to deal with the application for condonation, and secondly, the material which served before the Commissioner could not possibly have caused him to decide that there was good cause for condonation.

In the circumstances therefore the ruling is reviewed and set aside and referred back to the first respondent for the matter to be reconsidered before a Commissioner other than the second respondent.

A A Landman

Judge of the Labour Court of South Africa

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