

SOUTH AFRICA / JUDGMENT

Cadema Industries (Pty) Ltd v De Kock NO and Others (C400/06) [2007] ZALCCT 12 (15 February 2007) [2007] ZALCCT 12

COURT
Labour Court Cape Town

BEFORE
Pillay D

CASE / FILE NUMBER
C400/06

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IN THE LABOUR COURT OF SOUTH AFRICA

HELD AT CAPE TOWN

CASE NO:C400/06

In the matter between:

CADEMA INDUSTRIES (PTY) LTD

APPLICANT

and

C DE KOCK NO

1ST RESPONDENT

SOUTHERN AFRICAN CLOTHING AND TEXTILE

WORKERS UNION

2ND RESPONDENT

NATIONAL BARGAINING COUNCIL FOR THE

CLOTHING MANUFACTURING INDUSTRY

(WESTERN CAPE SUB-CHAMBER) 3RD RESPONDENT

REASONS

FOR ORDER GRANTED ON 15/02/07

PILLAY D, J

The award was reviewed and set aside because the arbitrator found that the applicant, Cadema Industries (Pty) Ltd, failed to consult the second respondent, the Southern African Clothing and Textile Workers Union (SACTWU) at the earliest opportunity for meaningful

consensus-seeking consultation about the short time imposed on 14th and 15th December 2005 and 23rd and 24th January 2006. In so doing the arbitrator disregarded the definition of “short time” and the short time provisions

in clause 12.4 of the Main Agreement. The Main Agreement requires an employer to issue one day’s notice for short time. Given the purpose of short time and the short notice periods, the standard of consultation that precedes short time is not as extensive as that prescribed for retrenchment.

On the facts, the parties did consult via correspondence. A more protracted consultation would have defeated the purpose of the short time. With regard to his ruling pertaining to the January 2006, short time the arbitrator had no jurisdiction as no dispute had been referred to the 3rd Respondent bargaining council.

DATED AT DURBAN ON 25 DECEMBER 2007-12-25

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Prepared on 12 October 2026 · Esheria