

SOUTH AFRICA / JUDGMENT

Mills v Group 4 Securicor (J1789/07)

[2008] ZALC 212 (27 February 2008)

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COURT

Labour Court

BEFORE

Moshona

CASE / FILE NUMBER

J1789/07

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IN

THE LABOUR COURT OF SOUTH AFRICA HELD IN JOHANNESBURG

Case

no: J1789\07

In

the matter between:

JOHAN

MILLS Applicant

and

GROUP

4 SECURICOR Respondent

JUDGMENT

MOSHOANA AJ

Introduction

[1] This is an application brought in terms of section 158 (1) (c) of the Act.

Background facts

[2] On or about 01 November 2005, the applicant entered into an employment contract with Group 4 Securicor Global risks limited, a company registered in the republic of Ireland. At the time of his employment, the applicant was seconded to Outsourcing Services Limited in Nigeria.

- [3] On or about 18 October 2006, the applicant received a termination letter from G4 Securicor Nigeria Limited. Such a letter was signed by the managing director of that Nigerian company.
- [4] As a result of that dismissal which in terms of the Labour Relations Act is unfair, the applicant referred the dispute to the CCMA. On 28 February 2007, a default award was issued against Group 4 Securicor.
- [5] On 22 March 2007, a letter of demand was issued against Group 4 Securicor situated at 1204 Schoeman Street 2nd Floor G4S Gables Building Hatfield, Pretoria. The company registered as G4S Security Services (SA) (Pty) Ltd responded to the demand and stated that they are not aware of any award against them.
- [6] On 17 April 2007, G4S Security Services (SA) (Pty) Ltd then applied for rescission of the said award. Such an application was not pursued further.
- [7] On 31 July 2007, the applicant launched this application and served it on Group 4 Securicor at 1209 Schoeman street 2nd floor. This address turned out to be that of G4S Security Services (SA) (Pty) Ltd. The G4S sought to oppose the application.

The basis for the application

- [8] In court Mr Van der Walt argued that G4S should be held liable for the award because of some inapplicable principles of international law. Mr Hutchinson for G4S argued that no liability should arise as there was never an employer and employee relationship between the applicant and G4S.

Analysis

- [9] A relief in section 158 (1) (c) of the Labour Relations Act is discretionary. The court can refuse to enforce an award that is null and void. A party against whom the award is operative may not challenge such an invalid award and await any attempt to enforce it and oppose such.

See: Botha v Department of Education Limpopo (2007) JOL (208) 22 (LC).

Vidavsky v Body Corporate Sunhill villas 2005 (5) SA 2000 (SCA).

- [10] However, what is peculiar about this matter is that the award is not against G4S but some Group 4 Securicor. The only reason G4S sought to oppose this application was because the application was served on it and Mr Van der Walt argued that they are liable to pay the amount stated in the award. As pointed out, this court has a discretion. I do not see how this court should exercise its discretion when there is no evidence to suggest that the party against whom the award is made (Group 4 Securicor) refuses to comply with the terms of the award.

Order

[11] In the result, I make the following order:

The application in terms of section 158 (1) (c) fails.

G4S Security Services (Pty) Ltd is not liable to pay any compensation in terms of an award issued by the CCMA.

The applicant to pay the costs of G4S Security Services (Pty) LTD.

Moshwana AJ

Acting Judge of the Labour Court

Johannesburg

Appearances

For the Applicant : Mr. Walt

For the Respondent : Adv Hutchison

Instructed by : Moodie & Robertson

Date of hearing : 22 February 2008

Date of Judgment : 27 February 2008

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Prepared on 11 October 2026 · Esheria