

SOUTH AFRICA / JUDGMENT

Phosa v Ekurhuleni Metropolitan Municipality (J14/22) [2025] ZALCJHB 121 (11 March 2025) [2025] ZALCJHB 121

COURT

Labour Court Johannesburg

BEFORE

M Makhura

CASE / FILE NUMBER

J14/22

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THE LABOUR COURT OF SOUTH AFRICA, JOHANNESBURG

Not Reportable

Case No. J14/22

In the matter between:

MANDISA PHOSA

Plaintiff

and

EKURHULENI METROPOLITAN MUNICIPALITY

Defendant

Heard: In Chambers

Delivered: 11 March 2025

JUDGMENT: APPLICATION FOR LEAVE TO APPEAL

MAKHURA, J

[1] On 28 November 2024, this Court handed down judgment in terms of which the plaintiff's dismissal was found to be automatically

unfair and ordered the defendant to pay her R2 2551 279.92. On 20 December 2024, the defendant filed an application for leave to appeal against the whole of this judgment and order.

- [2] Applications for leave to appeal are brought in terms of rule 67 of the Rules Regulating the Conduct of the Proceedings of the Labour Court. Rule 67(3) provides that the application for leave to appeal must be made within 15 days after the date of

judgment.

- [3] As indicated, the judgment was handed down on 28 November 2024. A day is defined as any day other than a Saturday, Sunday, public holiday or any day within 16 December and 15 January, both days inclusive.[1] The application was filed on 20 December 2024, and was therefore filed within the 15 days' period.
- [4] There is however no proof that the application was served in accordance with Rule 67(4), which requires service on the secretary to the judge from whom leave to appeal is sought or on the secretary of any other judge in the seat where the matter was heard.
- [5] Rule 67(5) provides that:
- 'Within 10 days of the filing of the application for leave to appeal, the party seeking leave may file submissions in support of the application, and any party opposing the application for leave to appeal may file its opposing submissions within 5 days thereafter.'
- [6] Having filed the application for leave to appeal on 20 December 2024, the 10-day period to file the submissions commenced on 16 January 2025 and expired on 30 January 2025. It is now more than 5 weeks since the expiry of the period, and no submissions have been filed by the defendant.
- [7] Accordingly, the defendant has failed to comply with rule 67(3) and
- (4) of the rules of this Court. The application falls to be struck from the roll for non-compliance.
- [8] In the premises, the following order is made:

Order

1. The application for leave to appeal is struck from the roll for non-compliance with Rule 67 of the Labour Court rules.

M. Makhura

Judge of the Labour Court of South Africa

- [1] Rule 1.

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