

SOUTH AFRICA / JUDGMENT

Solidarity obo Van Staaden v Emalahleni Local Municipality (JS291/2020) [2021] ZALCJHB 326 (8 October 2021) [2021] ZALCJHB 326

COURT

Labour Court Johannesburg

BEFORE

F. Coetzee

CASE / FILE NUMBER

JS291/2020

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IN

THE LABOUR COURT OF SOUTH AFRICA, JOHANNESBURG

Not

Reportable

Not

of interest to other judges

Case

no: JS291-2020

In

the matter between:

SOLIDARITY

obo MC VAN

STAADEN Applicant

and

EMALAHLENI LOCAL

MUNICIPALITY Respondent

Heard: 7

October 2021

Delivered: This

judgment was handed down electronically by circulation to the parties' representatives by email and release to SAFLII.

The

date and time for hand-down is deemed to be 10h00 on 8 October 2021.

Summary: The

respondent applied for condonation for the late filing of its statement of defence

JUDGMENT**COETZEE AJ**

- [1] The parties have agreed for the matter to be decided on paper.
- [2] The respondent applied for condonation for the late filing of its statement of defence. The application is unopposed.
- [3] The delay is 20 days and is long but not excessive.
- [4] The respondent explained the delay in that from 23 June 2020 to 1 September 2020 it was unaware of the issuing of the claim as the statement of claim was not properly served upon the respondent. The respondent only became aware of the statement of claim on 1 September 2020.
- [5] From 1 September 2020 to 22 September 2020 the respondent had internal meetings to establish the facts, attended at the Labour Court to inspect the Court file and prepared a draft affidavit opposing the application for default judgment that it received on 1 September 2020.
- [6] From 23 September to 5 October 2020 the respondent finalised and settled the opposing affidavit and the statement of defence and served and file same by 6 October 2020.
- [7] As to the prospects of success the respondent pleads that the applicant has no prospects. The respondent's version is that no salary is due to the applicant as he failed to report for duty. He has no claim for travelling expenses as he did not qualify in terms of the policy. The applicant also is not entitled to any leave payment as he forfeited his leave in terms of a collective agreement. On top of it all the applicant settled his claim for payment of salary and leave pay.
- [8] Prejudice does not play a decisive role.
- [9] Having regard to all the considerations, the late filing of the statement of defence is condoned.

Costs

- [10] There is no reason to make a cost order.

Order

- [11] I make the following order:

- 1. The late filing of the respondent's statement of defence is condoned with no order as to costs.

F. Coetzee

Acting Judge of the Labour Court of South Africa

Appearances

For the applicant: Decided

on the papers

For the Respondent: Decided on the papers

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CASE PAGE <https://chat.esheria.ai/case-law/south-africa/solidarity-obo-van-staaden-v-emalahleni-unknown-topic-alcjhb-2021>

Prepared on 11 October 2026 · Esheria