

SOUTH AFRICA / JUDGMENT

Tshabalala v Kruger (JR475/14) [2017] ZALCJHB 2 (11 January 2017) [2017] ZALCJHB 2

COURT

Labour Court Johannesburg

BEFORE

Seedat

CASE / FILE NUMBER

JR475/14

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REPUBLIC OF SOUTH AFRICA

THE LABOUR COURT OF SOUTH AFRICA, JOHANNESBURG

JUDGMENT

Reportable/Not Reportable

Case No JR 475/14

In the matter between:

SAMUEL TSHABALALA Applicant

and

WILLIE HENDRIK KRUGER Respondent

Heard: 10 January 2017

Delivered: 11 January 2017

Summary: Application for default judgment not possible on a review of a jurisdictional ruling. The applicant has in, any event, not set out the grounds of review. The application may also be out of time.

SEEDAT. AJ

[1] The commissioner of the Commission for Conciliation Mediation and Arbitration (CCMA) had, on 12 April 2014, found that the Applicant

was not an employee of the Respondent but an independent contractor.

[2] The Applicant then sought to review this ruling of the commissioner on the ground that:

“The employer terminate (sic) the contract without notice.”

[3] There was no opposition from the Respondent and the Applicant applied for judgment by default on 14 October 2014.

[4] On 16 February 2016, the Registrar directed a letter to the Applicant stating:

“The above matter has been handed to Justice in chambers for perusal and direction.

2. I have been directed to write to you as follows:-

“(a) The Applicant is to outline the facts to be relied on in the statement of claim.

(b) The Applicant is further to attach the registered post slip as proof of service.”

[5] The proof of service dated 25 November 2016 was filed though it is not clear as to what was served on the Respondent. However, no attempt has been made to elaborate on the grounds for review.

[6] The Applicant has not set out the grounds on which he seeks to have the ruling of the commissioner reviewed.

[7] There is too, the fact that this was a ruling on jurisdiction by the commissioner. The Applicant cannot, therefore, ask for judgment by default.

[8] Lastly, it would appear that the application for review is outside the prescribed time period and no application for condonation has been made.

Order

1. The matter is dismissed
2. There is no order as to costs.

SEEDAT AJ

Acting Judge of the Labour Court

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