



THE LABOUR COURT OF SOUTH AFRICA, JOHANNESBURG

JUDGMENT

Not Reportable

Not of interest to other Judges

Case no: JR 1847/14

In the matter between:

INTRASPEED SA (PTY) LTD

Applicant

and

T BOYCE N.O AND OTHERS

Respondents

Heard: 28 July 2016

Delivered: 29 July 2016 (In Chambers)

Summary: The applicant for leave to appeal must demonstrate that another court may reasonably come to a different outcome. The test for leave to appeal not met. The application is dismissed with costs.

JUDGMENT

MOSHOANA, AJ

Introduction

- [1] This is an application for leave to appeal. The applicant contends that another court may come to a different conclusion.

Background facts

- [2] On or about 28 November 2013, the third respondent attended the applicant's Christmas party. After consuming alcohol, approximately 8 340ml bottles of beers, he left the party to his home. Whilst at home, he consumed another bottle of beer before he could go through emails on his phone. He came across an email from the branch manager of Cape Town Office, Paul Thomas. The email was sent at or about 13h47 that day. Therein, Thomas asked: 'Why was this entry not cleared via GR as registered and instructed?' Annoyed by the query, he asked his wife to send an email to Thomas, which read: 'Fuck You Thank You'. The following day, 29 November 2013 at or around 08:01, Thomas forwarded the email to Tony Van Aswegen and Willie De Lange. He stated the following: 'LOL...I had to laugh when I got this mail'. Shortly thereafter, Tony Van Aswegen wrote an email to both Thomas and De Lange and said: 'Hi Willie, I will call you later to discuss this, this is unacceptable'.
- [3] On 2 December 2013, the third respondent was issued with a notification of a disciplinary hearing to be held on 3 December 2013. He was charged with gross misconduct in using abusive language to a fellow manager. On 3 December 2013, he pleaded guilty. The Chairperson, De Lange said that due to the fact that the third respondent was already on a final written warning, he had no choice but to dismiss him from the applicant.

Evaluation

- [4] The test in applications of this nature is simple. It entails whether another court may reasonably arrive at a different conclusion. Having considered the grounds upon which this application is predicated, I am of a firm view that the test has not been met.

Order

[5] In the results, I make the following order:

1. The application for leave to appeal is refused.
2. The applicant to pay the costs of this application.

Moshoana, AJ,

Acting Judge of the Labour Court of South Africa

APPEARANCES

For the Applicant: C Haralambous of Cox Yeats Attorneys,
Johannesburg.

For the Respondents: Advocate Greyling

Instructed by: Lingenfelder Baloyi Incorporated, Pretoria

LABOUR COURT