

**THE ISSUE**

1. This is an application in terms of Section 144 of act no 66 of 1995, as amended, The Labour Relations Act.
2. The applicant sought the Rescission/variation of my ruling in respect of costs dated 3 February 2010.
3. The application was considered on written submissions in terms of Section 138 (10).
4. The respondent failed to file an opposition.

**APPLICANT'S SUBMISSION**

5. The applicant submitted that he had been the only representative to handle cases at the union offices in Bloemfontein and that on the day of the said hearing the applicant had had three matters set down. Mr. Greef had two matters set down for the same time. He had contemplated requesting postponement for the other two matters but when he had met with Mr. Mthembu on a previous occasion he was advised not to as it was not anticipated that the matter in respect of the other case would have proceeded past the 9h00 sitting of the matter on hand.
6. He submitted that Mr. Mthembu during the proceedings had telephoned myself and requested a delay of 45 minutes of the proceedings. The case with Mr. Mthembu had concluded at 10 h00 and Mr. Greef rushed to attend to the matter at hand.
7. Mr. Greef suggested that he arrived as soon as the recorder was being packed away and parties were about to leave. He argued that I had indicated to him that the matter was postponed and that he should request another date from Council. It was not mentioned that the postponement was granted with costs.

8. According to the two employees to the dispute the respondent had only procured a venue at around 10h00.
9. Mr. Greef suggested that Council had also contributed to the situation as three matters of the same Council involving the same union had sat on one day. He argued that it was difficult to get a matter postponed at Council and even if it had been postponed a further date was always long off.
10. He submitted that he had meant no disrespect and sought that the costs order be set aside.

### **ANALYSIS OF SUBMISSION**

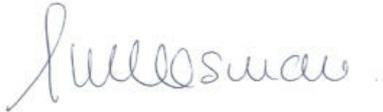
1. I am inclined towards the version of the applicant in the absence of the respondent's version.
2. I am convinced that the applicant had not deliberately intended to attend the hearing or be late at the hearing.
3. I had indeed received a telephonic call from Commissioner Mthembu indicating that Mr. Greef was indeed involved at a hearing with him.
4. The applicant had indeed asked for a grace period but nonetheless attended later than was agreed.
5. Seemingly, the Council had also contributed to the situation by setting down matters involving the same union all on the same date.
6. In view of the above I am inclined to vary my ruling dated 3 February 2010 only to the extent that Clauses 12; 13 and 14 are excluded from the ruling.

### **FINDING**

11. The Ruling is varied to the extent to exclude costs for both the respondent and the Council.

12. Clauses 12; 13 and 14 are removed from the ruling.
13. The ruling dated 3 February 2010 is limited to the postponement of the matter only as read in Clause 10 of the award.

**Signed at Kimberley on this 1st day of July 2010**

A handwritten signature in blue ink, appearing to read "Shiraz Mahomed Osman". The signature is written in a cursive style with a large initial 'S'.

**PSCBC COMMISSIONER  
SHIRAZ MAHOMED OSMAN**