

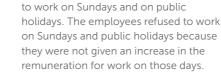
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# UNLAWFUL DEMANDS AND STRIKES AND THE IMPORTANCE OF CONTRACTUAL TERMS

The refusal by employees to undertake
tasks which are not detailed in their
contracts or agreed upon will
not be regarded as a
strike.
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The court held that although the contracts of employment provided for overtime, it did not mean that the employees were obliged to work on Sundays or on public holidays.



In G4S Cash Solutions SA (Pty) Ltd v Motor

2016), the employer required its employees

Transport Workers Union and Others

(JA51/15) [2016] ZALCJHB 2016 (26 May

contracts or agreed upon will not be regarded as a strike.

On appeal, the employer argued that the employees' refusal to work on Sundays and public holidays fell within the definition of a strike in the Labour Relations Act, No 66 of 1995. In terms of the Basic Conditions of Employment Act, No 75 of 1997 an employer may not require an employee to work on a public holiday, unless a written agreement exists.

The Labour Appeal Court considered whether the employees had a contractual obligation to work on Sundays and on public holidays.

The court held that although the contracts of employment provided for overtime, it did not mean that the employees were obliged to work on Sundays or on public holidays. It held that the there was no obligation on the employees to work every Sunday and therefore the employer could not require employees to do so. The employees' refusal to work on Sundays

did not constitute a strike and does not fall

The effect of the judgment is that the refusal by employees to work in response to an employer's request that does not contractually arise will not amount to a strike. The essence of the case is that employers that require their employees to undertake work on Sundays or on public holidays must contractually agree the terms.

Sipelelo Lityi and Stephanie Gonclaves

within the definition of strike.











MERGERMARKET







Our Employment practice's new EMPLOYMENT STRIKE GUIDELINE answers our clients' FAQs.

Topics discussed include strikes, lock-outs and picketing.



CHAMBERS GLOBAL 2014 - 2016 ranks our Employment practice in Band 2: Employment.

Aadil Patel ranked by CHAMBERS GLOBAL 2015 - 2016 in Band 2: Employment.

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Fiona Leppan ranked by CHAMBERS GLOBAL 2016 in Band 3: Employment.



Michael Yeates named winner in the **2015** and **2016 ILO Client Choice International Awards** in the category 'Employment and Benefits, South Africa'.







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