

Employment Law

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- Costs in the Labour Court: Understanding discretion in withdrawn applications



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Costs in the Labour Court: Understanding discretion in withdrawn applications

Litigation in the Labour Court presents unique challenges concerning awards of legal costs. Unlike many civil courts, where costs typically “follow the result”, the Labour Court operates with a distinct approach. A recent judgment serves as a reminder of this discretionary power, especially when an application is withdrawn before being heard. This alert examines the Labour Court’s decision in the case of *Springpoint Finance (Pty) Ltd v Fourie and Another (J2270/2025) [2026] ZALCJHB 1 (30 January 2026)*.



Summary of relevant facts

The matter originated with an urgent application lodged by Springpoint Finance (Pty) Ltd, an employer, against a former employee and her new employer, Multivest Financial Planning (Pty) Ltd. The application sought to enforce a restraint of trade agreement. The respondents, the employee and Multivest, opposed the application.

Shortly after the respondents had fully engaged in the legal process, Springpoint Finance elected to withdraw its urgent application. Significantly, the employer withdrew the application without tendering any payment for the respondents’ incurred costs, indicating its intention to pursue the restraint of trade matter in the High Court instead. This withdrawal prompted the respondents to return to the Labour Court, seeking an order for their legal costs under Rule 43 of the Labour Court Rules. They contended that they had incurred substantial and unnecessary expense and that fairness dictated that Springpoint Finance should bear these costs, potentially on an attorney-and-own-client scale.





Legal issues considered

The central legal issue before the Labour Court was whether an employer who withdraws an urgent restraint of trade application should be ordered to pay the legal costs of the respondents. Key to this was the interpretation and application of section 162 of the Labour Relations Act, which governs costs orders in the Labour Court. The Court also had to consider the extent to which the conventional civil law principle of “costs follow the result” applies in the specialised context of labour disputes. Furthermore, the application explored whether the mere withdrawal of an application, particularly without a tender for costs, automatically obliges the withdrawing party to pay the other side’s costs.



The Court’s application of the law to the facts

In its deliberations, the Labour Court underscored that its power to award costs under section 162 of the Labour Relations Act is rooted in a broad discretion, guided by the overarching principles of law and fairness. This statutory framework distinguishes Labour Court proceedings from ordinary civil litigation, where the successful party typically recovers costs. The Court reiterated previous warnings from the Constitutional Court against imposing costs orders that might deter parties from seeking redress in the Labour Court, especially given that labour disputes often involve fundamental constitutional rights, such as the right to fair labour practices or the right to choose one’s trade or occupation.

Crucially, the Court clarified that the withdrawal of an application does not automatically signify a “win” for the opposing party, nor does the absence of a costs tender by the withdrawing party necessarily compel the Court to penalise them. Instead, the determining factor is whether, in the totality of the circumstances, it would be fair to make a costs order. While acknowledging the financial prejudice and inconvenience caused to the respondents by Springpoint Finance’s withdrawal, the Court assessed whether the employer’s conduct crossed the threshold into *mala fides*, vexatious litigation, or an abuse of process.

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The Court's findings

After considering all submissions, the Labour Court was not persuaded that the employer's conduct in withdrawing the application amounted to bad faith, vexatious litigation, or an abuse of the court's process. In the absence of such aggravating factors, the Court was reluctant to depart from the well-established Labour Court principle that costs are not awarded lightly. The Court ultimately concluded that the circumstances did not justify an order for costs against Springpoint Finance.



Key takeaways

Employers must recognise that the Labour Court's approach to costs is discretionary, guided by law and fairness, rather than a rigid adherence to the "*costs follow the result*" principle. This means that even if an application against an employer is withdrawn, a costs order in their favour is not automatic.

Aadil Patel and Ra'ees Ebrahim



OUR TEAM

For more information about our Employment Law practice and services in South Africa, Kenya and Namibia, please contact:



Aadil Patel

Practice Head & Director:
Employment Law
Sector Head:
Government & State-Owned Entities
T +27 (0)11 562 1107
E aadil.patel@cdhlegal.com



Anli Bezuidenhout

Director:
Employment Law
T +27 (0)21 481 6351
E anli.bezuidenhout@cdhlegal.com



Frieda Kishi

Director | Namibia
T +264 83 373 0100
E frieda.kishi@cdhlegal.com



Fiona Leppan

Director:
Employment Law
T +27 (0)11 562 1152
E fiona.leppan@cdhlegal.com



Imraan Mahomed

Director:
Employment Law
T +27 (0)11 562 1459
E imraan.mahomed@cdhlegal.com



Nadeem Mahomed

Director:
Employment Law
T +27 (0)11 562 1936
E nadeem.mahomed@cdhlegal.com



Yvonne Mkefa

Director:
Employment Law
T +27 (0)21 481 6315
E yvonne.mkefa@cdhlegal.com



Phetheni Nkuna

Chief Operating Officer
Director: Employment Law
T +27 (0)11 562 1478
E phetheni.nkuna@cdhlegal.com



Desmond Odhiambo

Partner | Kenya
T +254 731 086 649
+254 204 409 918
+254 710 560 114
E desmond.odhiambo@cdhlegal.com



Jean Ewang

Counsel:
Employment Law
T +27 (0)11 562 1499
E jean.ewang@cdhlegal.com



Thabang Rapuleng

Counsel:
Employment Law
T +27 (0)11 562 1759
E thabang.rapuleng@cdhlegal.com



JJ van der Walt

Counsel:
Employment Law
T +27 (0)11 562 1289
E jj.vanderwalt@cdhlegal.com



Ebrahim Patelia

Legal Consultant:
Employment Law
T +27 (0)11 562 1000
E ebrahim.patelias@cdhlegal.com



Daniel Kiragu

Senior Associate | Kenya
T +254 731 086 649
+254 204 409 918
+254 710 560 114
E daniel.kiragu@cdhlegal.com



Biron Madisa

Senior Associate:
Employment Law
T +27 (0)11 562 1031
E biron.madisa@cdhlegal.com



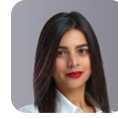
Thato Maruapula

Senior Associate:
Employment Law
T +27 (0)11 562 1774
E thato.maruapula@cdhlegal.com



Lee Masuku

Senior Associate:
Employment Law
T +27 (0)11 562 1213
E lee.masuku@cdhlegal.com



Leila Moosa

Senior Associate:
Employment Law
T +27 (0)21 481 6318
E leila.moosa@cdhlegal.com



Christine Mugenyu

Senior Associate | Kenya
T +254 731 086 649
+254 204 409 918
+254 710 560 114
E christine.mugenyu@cdhlegal.com



Kgodisho Phashe

Senior Associate:
Employment Law
T +27 (0)11 562 1086
E kgodisho.phashe@cdhlegal.com



Taryn York

Senior Associate:
Employment Law
T +27 (0)11 562 1732
E taryn.york@cdhlegal.com

OUR TEAM

For more information about our Employment Law practice and services in South Africa, Kenya and Namibia, please contact:



Rashaad Dadoo

Associate:
Employment Law
T +27 (0)21 481 6317
E rashaad.dadoo@cdhlegal.com



Chantell De Gouveia

Associate:
Employment Law
T +27 (0)11 562 1343
E chantell.degouveia@cdhlegal.com



Ra'ees Ebrahim

Associate:
Employment Law
T +27 (0)11 562 1735
E raees.ebrahim@cdhlegal.com



Lehan Goosen

Associate:
Employment Law
T +27 (0)21 481 6319
E lehan.goosen@cdhlegal.com



Ayesha Karjieker

Associate:
Employment Law
T +27 (0)11 562 1568
E ayesha.karjieker@cdhlegal.com



Kevin Kipchirchir

Associate | Kenya
T +254 731 086 649
+254 204 409 918
+254 710 560 114
E kevin.kipchirchir@cdhlegal.com



Thato Makoaba

Associate:
Employment Law
T +27 (0)11 562 1659
E thato.makoaba@cdhlegal.com



Sheilla Mokaya

Associate | Kenya
T +254 731 086 649
+254 204 409 918
+254 710 560 114
E sheilla.mokaya@cdhlegal.com



Sashin Naidoo

Associate:
Employment Law
T +27 (0)11 562 1482
E sashin.naidoo@cdhlegal.com



Billy Oloo

Associate | Kenya
T +254 731 086 649
+254 204 409 918
+254 710 560 114
E billy.oloo@cdhlegal.com



Melisa Wekesa

Associate | Kenya
T +254 731 086 649
+254 204 409 918
+254 710 560 114
E melisa.wekesa@cdhlegal.com

BBBEE STATUS: LEVEL ONE CONTRIBUTOR

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JOHANNESBURG

1 Protea Place, Sandton, Johannesburg, 2196. Private Bag X40, Benmore, 2010, South Africa.
Dx 154 Randburg and Dx 42 Johannesburg.
T +27 (0)11 562 1000 F +27 (0)11 562 1111 E jhb@cdhlegal.com

CAPE TOWN

11 Buitengracht Street, Cape Town, 8001. PO Box 695, Cape Town, 8000, South Africa. Dx 5 Cape Town.
T +27 (0)21 481 6300 F +27 (0)21 481 6388 E ctn@cdhlegal.com

NAIROBI

Merchant Square, 3rd floor, Block D, Riverside Drive, Nairobi, Kenya. P.O. Box 22602-00505, Nairobi, Kenya.
T +254 731 086 649 | +254 204 409 918 | +254 710 560 114
E cdhkenya@cdhlegal.com

ONGWEDIVA

Shop No A7, Oshana Regional Mall, Ongwediva, Namibia.
T +264 (0) 81 287 8330 E cdhnamibia@cdhlegal.com

STELLENBOSCH

14 Louw Street, Stellenbosch Central, Stellenbosch, 7600.
T +27 (0)21 481 6400 E cdhstellenbosch@cdhlegal.com

WINDHOEK

2nd Floor, 4@Steps - East Tower, Hilltop Estate, Kleine Kuppe, Windhoek.
PO Box 97115, Maerua Mall, Windhoek, Namibia, 10020
T +264 833 730 100 E cdhnamibia@cdhlegal.com

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