

IN THE LABOUR COURT OF LESOTHO

LC/REV/84/2007

HELD AT MASERU

IN THE MATTER BETWEEN:

LEWIS STORES (PTY) LTD

APPLICANT

AND

MOTEBANG RAPHAEL MAKHELE  
ARBITRATOR N. MOSHOESHOE

1<sup>ST</sup> RESPONDENT  
2<sup>ND</sup> RESPONDENT

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## JUDGMENT

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*Review application - Failure to prosecute the review -  
Application dismissed.*

1. On the 22<sup>nd</sup> June 2007, Arbitrator Nkoebe Moshoeshoe handed down an award in which he ordered that the 1<sup>st</sup> respondent be reinstated in his job and further that he be paid an amount of M11,791-00 for lost earnings.
2. On the 19<sup>th</sup> July the employer (applicant herein) filed an application for the review of arbitrator Moshoeshoe's award. The applicant also filed a separate application in which it sought stay of execution of the award pending finalization of the review. The order staying execution was duly granted by this court on the 20/07/07.
3. On the 9<sup>th</sup> August 2007, the Registrar of this court wrote to the applicants calling on them to collect the tapes of the arbitration

- proceedings for transcription, pursuant to Rule 7 of the Labour Appeal Court Rules 2002. The tapes were duly collected and signed for by a Mpho Lesenyeho of the office of the counsel for the applicant. The said tapes were to be returned to the Registrar on the 15<sup>th</sup> November 2007.
4. The tapes were not returned as undertaken and the record was not filed in terms of the Rules. On the 6<sup>th</sup> August 2008 the 1<sup>st</sup> respondent sought to know progress on his case only to find that there was none. Accordingly, the Registrar wrote to counsel for the applicant requiring them to file the record within 7 days and warning them that “failure to do so may result in the matter being struck off for want of prosecution.” The letter of the Registrar was personally served on Mpho Lesenyeho on the same day.
  5. It is exactly 14 days today since the applicant was warned to file the record in order that this matter be dealt with to finality. There is still no record filed. This is one of those matters which it may readily be inferred that it was only filed to block and frustrate execution of the award of the DDPR. Ostensibly the applicants are not showing eagerness to have this matter finalized. Accordingly, 1<sup>st</sup> respondent’s application to have the matter dismissed for want of prosecution is granted and the review application is therefore dismissed.

THUS DONE AT MASERU THIS 19<sup>TH</sup> DAY OF AUGUST 2008

**L. A. LETHOBANE**  
**PRESIDENT**

**J. M. TAU**  
**MEMBER**

**I CONCUR**

**M. MAKHETHA  
MEMBER**

**I CONCUR**