



EMPLOYMENT

The union doth protest too much: NUMSA v BMW and the limits of court intervention in disciplinary proceedings

11 December 2025 3 min read

by Bradley Workman-Davies, Director

The Labour Court's judgment in NUMSA on behalf of Members v BMW (SA) (Pty) Ltd is a timely reaffirmation of an increasingly necessary principle: the Labour Court is not a supervisory body for every perceived defect in a workplace disciplinary process. Where parties attempt to short-circuit internal mechanisms or the statutory dispute-resolution scheme under the Labour Relations Act (LRA), they do so at significant risk – both legally and financially.

In this matter, NUMSA approached the Labour Court on an urgent basis seeking to halt ongoing disciplinary proceedings against its members at BMW. The union alleged procedural irregularities and sought the Court's intervention to interdict the employer from continuing with the hearings.

The Court had little difficulty identifying the central defect in NUMSA's approach. The Labour Court has consistently held that intervention in incomplete disciplinary hearings will only be justified in truly exceptional circumstances. The reason is straightforward: disciplinary hearings are intended to be swift, internal, and minimally legalistic. To invite the Labour Court to

preside over each procedural quarrel is to undermine not only the employer's prerogative to discipline but also the LRA's design of speedy, specialised dispute mechanisms. The court noted that complaints of procedural irregularity can – and must – be raised at the hearing itself, and thereafter, if necessary, before the CCMA or a bargaining council once the internal process has run its course. NUMSA's grievance concerned precisely the type of issue that the statutory system is equipped to address, and there was no basis for the Court to step in mid-stream.

What is striking in the Court's reasoning is its emphasis on the abusive nature of the application. Importantly, NUMSA is no inexperienced litigant; it is a well-resourced trade union with extensive familiarity with the LRA and the architecture of workplace dispute resolution. NUMSA, given its size, experience and resources, "should have known" that the application was "doomed to fail". Instead, its attempt to invoke urgency and judicial oversight was viewed as nothing more than an attempt to frustrate the employer's ability to discipline its employees and to compromise the efficiency of the dispute-resolution system. This conduct warranted a punitive costs order – the highest party-and-party scale – a rare but telling rebuke.

The outcome sends a clear message to both unions and employees: the Labour Court will not permit itself to be used as a tactical device to derail or delay internal processes. Nor will it allow litigants to bypass the carefully constructed statutory system that exists precisely to adjudicate workplace disputes. For employers, the judgment is equally significant. It confirms their entitlement to conduct disciplinary proceedings without judicial interference, provided they adhere to the requirements of fairness. The Court will not micromanage these processes, and it will not countenance applications designed merely to buy time or exert pressure. Ultimately, NUMSA v BMW reinforces the integrity of the LRA framework: internal hearings first, statutory dispute resolution next, and Labour Court intervention only once the statutory path has been properly followed – or in the rarest of exceptional cases.



Bradley Workman-Davies

Director

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