



NOT REPORTABLE

CASE NO: SA 93/2020

IN THE SUPREME COURT OF NAMIBIA

In the matter between:

BANK OF NAMIBIA

Appellant

and

**LESILIA ELIA
LABOUR COMMISSIONER**

**First Respondent
Second Respondent**

Coram: MAINGA JA, SMUTS JA and HOFF JA

Heard: 8 March 2023

Delivered: 15 March 2023

Summary: The appellant herein withdrew an appeal which was set down for 8 March 2023. First respondent seeks an order for costs against the appellant who has failed to file heads of argument when it was due, resulting in the lapsing of the appeal.

Appellant's legal practitioner filed a notice of withdrawal in respect of the application for condonation and reinstatement which was initially filed, and tendered costs of the first respondent a day after the matter was heard.

Held that, the application for condonation and reinstatement of the appeal is struck from the roll with costs.

APPEAL JUDGMENT IN RESPECT OF COSTS

HOFF JA (MAINGA JA and SMUTS JA concurring):

[1] This appeal was set down on 8 March 2023. The appellant's legal practitioner failed to comply with rule 17(1) by neglecting to file heads of argument within the time stipulated in that rule. The result of such failure in terms of rule 17(2) is that the appeal lapses. This normally would require the appellant, in this matter, to launch an application for condonation for such non-compliance and for the reinstatement of the appeal.

[2] On 3 March 2023 the appellant's legal practitioner filed a notice of withdrawal in respect of the application for condonation and reinstatement of the appeal. The matter was subsequently struck from the roll in court and the court reserved judgment in respect of the issue of costs.

[3] On 9 March 2023 a letter was filed by the appellant's legal practitioner informing the presiding Justices that the appellant had tendered the costs of the first respondent and invited the first respondent to submit her bill of costs to the Registrar for the purpose of taxing thereof.

[4] In view of the tendering of costs by the appellant the following order is made:

The application for condonation and reinstatement of the appeal is struck from the roll with costs.

HOFF JA

MAINGA JA

SMUTS JA

APPEARANCES

APPELLANT:

N Tjombe

Of Tjombe – Elago Inc.

FIRST RESPONDENT:

T Nanhapo

Of Brockerhoff & Associates Legal

Practitioners