

Labour Court slams minister for "unlawfully" firing staffer after being stuck in a lift for an hour

By [Tania Broughton](#)

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The court ordered that the deputy director of corporate services immediately be reinstated.

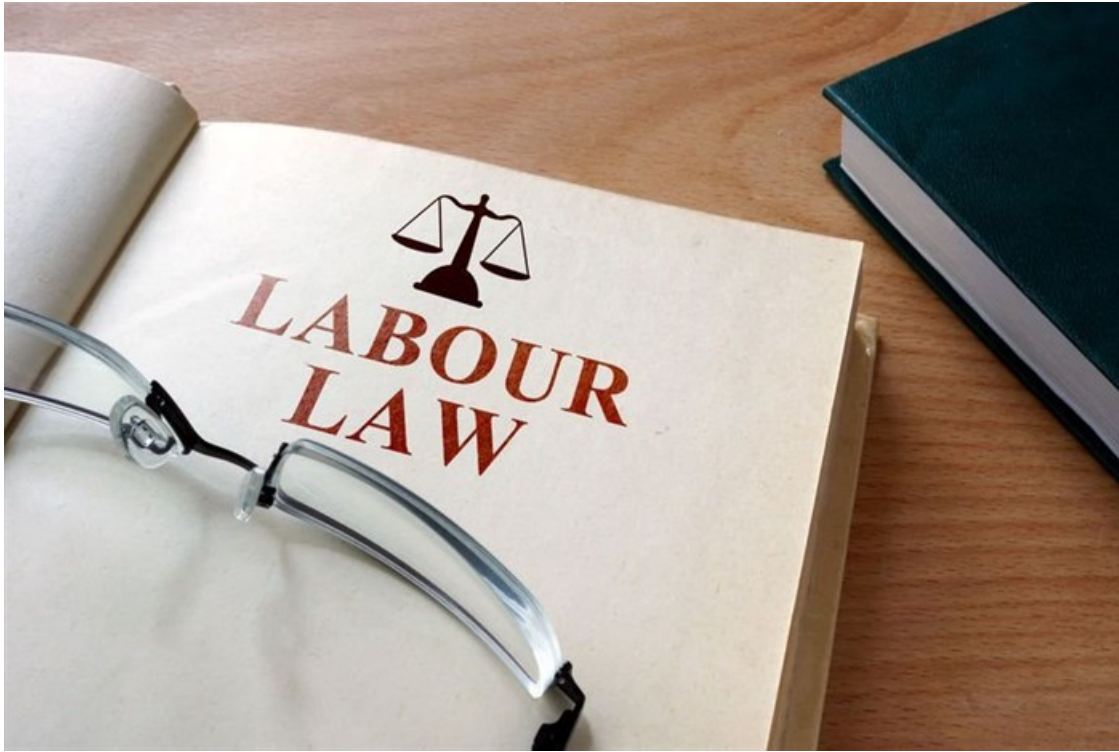


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- The Johannesburg Labour Court has ordered Minister of Human Settlements Mmamoloko Kubayi to immediately reinstate the deputy director of corporate services.
- Kubayi summarily terminated the deputy director's contract after Kubayi had been stuck in the lift for an hour and blamed the deputy director, accusing her of misconduct.
- This month, Johannesburg Labour Court Acting Judge Molatelo Makhura ruled that Kubayi's conduct was unlawful, saying such conduct "must be frowned upon".

The Minister of Human Settlements has been [ordered](#) to immediately reinstate deputy director of corporate services Nelly Letsholonyane who was found to have been unlawfully dismissed.

Letsholonyane was dismissed after Minister Mmamoloko Kubayi got stuck in a lift for about an hour and then blamed Letsholonyane, and summarily terminated her contract in April this year.

This month, Johannesburg Labour Court Acting Judge Molatelo Makhura ruled that Minister Kubayi's conduct was "unlawful". "Such conduct should not be condoned by courts of law. This court cannot and should not turn a blind eye to injustice and lawlessness. The impact that such decisions have on employees is unimaginable," he said.

Minister Kubayi had posted on a WhatsApp group just before 8pm on 14 March this year, that she was stuck in the lift and that the "responsible person had already left work".



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Tania Broughton 15 Feb 2023



While Letsholonyane, alerted by the message, immediately took steps to get a technician from the lift company to attend to the matter, she was called into the Minister's office at 7.30am the following morning, and given a letter of intention to dismiss her for "gross negligence" for threatening the lives of employees. She was dismissed with immediate effect on 20 April 2023.

Letsholonyane then approached the Johannesburg Labour Court, alleging a breach of contract.

In his recent ruling, Judge Makhura said her dismissal was unlawful because the Minister did not comply with the provisions of the Senior Management Service Handbook (SMS Handbook).

He said Letsholonyane had been employed by the department since 2005 and was three-years from retirement when she was fired. He said the day after the lift incident, Letsholonyane was given a letter by the Minister containing the allegations of misconduct. These included that as head of the branch and manager responsible to ensure regular maintenance of the building and/or the lifts, she had failed to avert the risk, that she ought to have known that people were still working in the building and she had failed to timeously respond.

Letsholonyane submitted a written explanation, denying any misconduct, and indicated that the matter should be dealt with at a disciplinary hearing.

However, on 3 April the Minister gave her three options: to be dismissed, face a hearing, or take early retirement. Letsholonyane "under protest" opted for early retirement.

Whilst driving home on 20 April, she received a call from the Minister that she was dismissed with immediate effect, which was then confirmed in a letter.



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Letsholonyane, in her argument in the Labour Court, had argued that the Minister had acted as the victim, witness, initiator and referee "and this was not acceptable".

On whether the matter was urgent, Judge Makhura said that when political heads are alleged to have subverted the rule of law, or undermined provisions in valid agreements and "unleash lawlessness on the people they are supposed to lead, the

courts of law should hasten, when called upon to intervene, on good cause”.

“Failure by the courts in that situation would lead to the perpetuation of the lawlessness and embolden those in power to continue acting with impunity.”

He said the matter had nothing to do with the merits but whether the Minister had complied with the provisions in the SMS Handbook.

The Minister, he said, had rejected Letsholonyane’s conditional acceptance of early retirement and then, six days later, decided to summarily dismiss her without a disciplinary hearing, as is required by the Handbook.

He ordered that Letsholonyane be reinstated immediately. He further ordered that the Minister, or her delegate, be prohibited from dismissing Letsholonyane without complying with the procedures in the Handbook.

He also ruled that the Minister’s conduct “must be frowned upon” and that she pay the costs of the application.

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