

In the matter between:

Charon Febe Harris

Applicant

And

J Harris

1st Respondent

HL Harris

2nd Respondent

CJ Harris

3rd Respondent

MS Harris

4th Respondent

The Mattie Harris Trust

5th Respondent

Coram: Kganyago M.F

Decision handed down on the 20th January 2014

DECISION

INTRODUCTION

- [1] The applicant is bringing an application seeking an order for an extension of time within which to supplement her papers.
- [2] The respondents are opposing her application.

BACKGROUND

- [3] On the 27th November 2013, I delivered a decision, wherein the applicant was ordered to supplement her papers within one month of the order.
- [4] The applicant alleges that her attorney has informed her on the 2nd December 2013 that she will not be able to assist her. She instructed another attorney on the 12th December 2013, however that attorney was closing offices on the 13th

December 2013. The new attorney was opening offices on the 06th January 2014, and needed some time until the 23rd January 2014 to prepare the file.

- [5] The respondent are opposing the applicant's application. The respondents are submitting at the time when the applicant initiated her application for extension of time, she was already out of time. The respondents further submit that there are no sufficient substantial facts to convince the Tribunal to exercise its discretion in favour of the applicant.

APPLICABLE LAW

- [6] Regulation 147 (1) of the Companies Regulations, 2011 ("the Regulations") reads as follows:

" A party to any matter may apply to the Tribunal to condone late filing of a document, or to request an extension or reduction of time for filing a document, by filing a request in form CTR 147."

EVALUATION

- [7] My initial decision was delivered on the 27th November 2013. In terms of the order, the applicant was expected to have supplemented her papers within one month of the order.
- [8] In terms of section 5(3)(c) of the Companies Act 71 of 2008, in calculating the number of days, public holidays, Saturdays and Sundays are excluded . If public holidays, Saturdays and Sundays are excluded in the computation of the days, the applicant had until the 17/01/14 within which to comply with my order. The applicant has initiated her application for extension of time on the 06th January 2014. Therefore in my view, her application was initiated within the stipulated time period. The respondents submission that the applicant's application was initiated out of time has no merit.
- [9] It is common cause that most practitioners between the period 15th December and 15th January close for festive season. The applicant on receipt of my

decision, did not sit on her laurels, but she engaged her attorney in order to supplement her papers. One attorney was too busy to assist her and the other was closing for the festive seasons. The applicant has shown an interest in pursuing her matter. Her present attorney needs some time until the 23rd January 2014 in order to prepare and assist the applicant. That I find not to be unreasonable.

FINDINGS

[10] Therefore under the circumstances, I find that the applicant has presented adequate and satisfactory reasons why an extension of time within which to allow her to supplement her papers should be granted.

ORDER

[11] In the result, I make the following order:-

11.1. The applicant's application is hereby granted.

11.2. The applicant is granted an extension of time until the 31st January 2014 within which to supplement her papers if she so wish,

11.3. Thereafter, the respondents may serve and file their supplemented answering affidavits within 20 days of receipt of the applicant's supplementary affidavit if they so wish;

11.4. The applicant, if she wish to reply, may do so with 5 days of receipt of the respondent supplemented answering affidavits.

11.5. No order as to costs.

Dated at POLOKWANE on this 20th day of JANUARY 2014.

M.F KGANYAGO

MEMBER OF THE COMPANIES TRIBUNAL

