

IN THE COURT OF APPEAL OF ZAMBIA
HOLDEN AT LUSAKA
(Civil Jurisdiction)

15
CAZ/08/273/2017

BETWEEN:

MIRRIAM CHIVASA

AND

INTERNATIONAL GAMING AFRICA
(T/A LUSAKA ROYALE CASINO)



APPLICANT

RESPONDENT

Before the Hon. Mrs. Justice J.Z. Mulongoti
on the 15th day of January, 2018.

For the Applicant:

Mrs. M. Marabesa – Mwenya, Legal Aid Counsel

For the Respondent:

Mr. Z. Simposya of MSK Advocates

R U L I N G

Cases referred to:

1. *John Mumba, Danny Museteka and others v. Zambia Red Cross Society (2006) ZR 137*
2. *Shell & B.P. (Z) Limited v. Conidaris and others (1975) ZR 174*
3. *Sonny Paul Mulenga and another v. Chainama Hotels and another (1999) ZR 101*
4. *Linotype – Hell Finance v. Baker (1992) 4 ALL ER 887*
5. *Nyampala Safaris (Z) Limited and others v. Zambia Wildlife Authority and others (2004) ZR 49*

Legislation referred to:

1. Court of Appeal Rules, Statutory Instrument No. 65 of 2016

2. The High Court Rules, Cap 27 of the Laws of Zambia.

This is a ruling pertaining to the applicant's application for stay of execution of the ruling of the High Court Industrial Relations Division dated 21st September, 2017, pending appeal.

The background of the matter giving rise to this application is that on 30th June, 2017, the applicant sued the respondent in the High Court for wrongful and unfair dismissal. On 11th July, 2017, the applicant obtained an Order of interim injunction to restrain the respondent from evicting her from the company house and repossessing her work permit. The injunction was granted on the basis that the application was not contested and that the respondent was absent at the hearing without an excuse. On 14th July, 2017, the respondent applied for review of the ruling by which the interim injunction was granted. By a ruling dated 18th September, 2017, the High Court reviewed its ruling on the premise that the respondent had provided an explanation for its absence on the day the interim injunction was granted. The High Court then discharged the interim injunction.

On 21st September, 2017, the applicant applied for review of the ruling that discharged the interim injunction pursuant to Order XXXIX of the High Court Rules. The High Court dismissed the application on ground that the supporting affidavit showed that the issues raised were grounds for appeal and not review. On 4th October, 2017, the applicant took out summons for an order to stay the ruling of 21st September, 2017. The High Court refused to grant the stay pending appeal on ground that there is nothing to stay. The Court relied on the case of **John Mumba, Danny Museteka and others v. Zambia Red Cross Society.**¹

