



THE SUPREME COURT OF APPEAL
REPUBLIC OF SOUTH AFRICA

MEDIA SUMMARY – JUDGMENT DELIVERED IN THE SUPREME COURT OF APPEAL

From: The Registrar, Supreme Court of Appeal
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Status: Immediate

Please note that the media summary is intended for the benefit of the media and does not form part of the judgment of the Supreme Court of Appeal.

Blose v Ethikweni Municipality

The Supreme Court of Appeal (SCA) today upheld an appeal by Mr Blose. Mr Blose had sued the Ethikweni Municipality for wrongful and unlawful arrest, search and detention in the magistrate's court.

After evidence had been lead on behalf of both parties the legal representative of the defendant argued that the defendant was entitled to be absolved from the instance with costs because the plaintiff had not proved compliance with s 3(1)(a) of the Institution of Legal Proceedings Against Certain Organs of State Act 40 of 2002. S 3(1)(a) of the Act stipulates that any creditor of a state organ such as the Ethikweni Municipality must give written notice to that organ of state of his or her intention to institute legal proceedings. The legal representative of the plaintiff immediately applied to reopen the case in order to prove compliance therewith. The application was refused. The magistrate was found to have exercised her discretion improperly in refusing the application.

On appeal to the KwaZulu Natal High Court, Pietermaritzburg it was found that the magistrate had indeed exercised her discretion properly. The appeal court found that the high court's analysis of the magistrate's approach to the application to reopen the case was misdirected. This court accordingly set aside its order and remitted the case to the magistrate to hear further evidence from the plaintiff relating to compliance of s 3(1)(a) of that Act and to come to a fresh judgment.