

## **Casual Workers' Advice Office (CWAO) - Simunye Workers' Forum (SWF)**

Simunye Workers' Forum defeats snack giant Simba in the Labour Court!

The SWF won a victory against snack manufacturing giant Simba in the Johannesburg Labour Court on 21 November, with Simba forced to withdraw its bid for a permanent interdict against deemed permanent workers together with permanent workers who went on strike over Simba cancelling the free transport it used to provide.

(A 'deemed permanent worker' refers to a worker who is still being forced to work for a company via a labour broker even though the Constitutional Court in 2018 clearly ruled that any worker who has been doing a permanent job for more than three months at one company is automatically deemed permanent. Many bosses have flouted this ruling ever since).

It has become normal for companies to rush to the Labour Court every time workers go on strike. Even when workers follow all LRA procedures correctly, employers always tell the court that the strike is violent and unprotected. The Labour Court routinely hands out interim interdicts, which defeat workers' strike action, and therefore their constitutional rights. Many of these interim interdicts have no solid legal basis and if workers can afford a competent legal team, they usually manage to have the interim interdicts overturned. This is a clear abuse of the interdict system by bosses.

The details of this matter are:

On 4 October 2023, workers at two Simba plants (Isando and Pepsico in Gauteng) commenced a strike after referring a dispute to the CCMA about the cancellation of their free transport. Simba had decided to save costs by cancelling the transport – in effect significantly reducing workers' wages, as they would now have to pay R50-R100 to get to work each day. The strike was orderly and peaceful.

Simba immediately rushed to the Labour Court for an interdict. They served the application on the CWAO-SWF organiser Jacob Potlaki on the evening of 4 October, with just 16 hours' notice to appear in court. This was a violation of section 68.2 of the Labour Relations Act, which says that employers should not approach the courts without giving the workers less than 48 hours' notice. Simba even tried to interdict workers who were not on strike.

In the Labour Court on 5 October 2023, Simba denied unilaterally cancelling the free transport, saying that they had 'consulted' workers about it. The SWF's legal team rejected this argument because workers did not agree to the change, therefore it was an unlawful unilateral change entitling workers to strike pending conciliation by the CCMA.

Despite the short notice and the fact that SWF was not even given a chance to file its own papers, the Labour Court issued a temporary interdict declaring the strike unlawful and unprotected and ordering SWF to tell its members to return to work by 10 am on 6 October.

A month later, Simba launched disciplinary proceedings against the workers, accusing them of participating in an unprotected strike and an 'unlawful picket'. A large group of Simba workers accompanied the SWF legal team who appeared in the Labour Court on 21 November 2023 to have the temporary interdict withdrawn. Simba's own legal team then abruptly advised Simba to have the interdict cancelled. The judge then cancelled the interdict. SWF is asking the court to force Simba to pay their legal costs.

[ends]

*This press statement was released by the Casual Workers Advice Office and Simunye Workers Forum on 23 November 2023.*