

The City's Missteps in Service Disconnections

SS Geranium Mansions v The City of Johannesburg Metropolitan Municipality and Another (2024/056921) [2025] ZAGPJHC 110 (10 February 2025)

By **Tshiamo Tabane** (Candidate Attorney),
checked by **Nicholas du Toit** (Associate Designate), and released by **Charissa Kok** (Partner)

20 March 2025

INTRODUCTION

This article examines a recent High Court Judgement concerning the (un)lawfulness of the City of Johannesburg's decision to disconnect electricity before the lapse of the period specified in a pre-termination notice. The key issues before the Court were: whether the disconnection was unlawful; whether an interdict should be granted to prevent further disconnections, and; whether a punitive costs order was justified.

BACKGROUND

The Applicant launched an urgent application against the City on 11 December 2024,¹ after the City disconnected their electricity supply on 5 December 2024.²

The Applicant sought and obtained an urgent interdict restoring electricity and preventing further disconnections until the resolution of the main application, which dealt with disputed charges and service tariffs. Additionally, they requested the Court to impose punitive costs against the City.³

COURT'S INTERPRETATION

Lawfulness of the Termination

The Court first considered the lawfulness of the disconnection:

The City issued a **pre-termination notice on 3 December 2024**,⁴ in terms of Clause 30.1 of its Credit Control and Debt Collection Policy, which provided consumers **seven (7) days** to remedy the situation before disconnection.⁵ However, the City disconnected the electricity just **two (2) days later**, on 5 December 2024, failing to comply with its own policy as well as the pre-termination notice

The Court considered the decision in *39 Van der Merwe Street Hillbrow CC v The City of Johannesburg and Others*.⁶

In this case, the City purported to give **fourteen (14) days notice** in advance, warning of disconnection of services if applicant failed to pay its account. This is in terms of section 13(2)(a) of the City's Credit Control and Debt Collection By-laws, which requires 14 days advance notice/warning communicated via a final demand notice.⁷ According to the Court in the above matter, it was found that failure to pay after receiving notice,⁸ stands as a precondition to terminate services after the 14 days. In the current matter, it is evident that the City failed to adhere to any of the statutory requirements.

The Court further interpreted the requirements laid down by the Constitutional Court in *Joseph and Others v City of Johannesburg and Others* 2010 (4) SA 55(CC) for a notice to be sufficient. Such requirements include that a pre-termination notice must include the relevant information of the disconnection, including the date and time of the proposed disconnection, reason for the proposed disconnection, and place at which the affected parties can challenge the basis of proposed disconnection. Moreover, it must afford applicants sufficient time to make enquiries, seek legal advice and prepare themselves.⁹

Based off of the above requirements, the court held that the disconnection of the electricity supply on 5 December 2024 was unlawful, as the City's pre-termination notice was non-compliant with its own policies and relevant legal precedents as shown above.¹⁰

Punitive Cost Order

The Court found that a punitive cost order was appropriate given that the termination of electricity was found to be unlawful.¹¹ Additionally, the Court strongly criticised the City's "continued abuse of power with unflinching resolve", as previously noted in *Robindale Five (Pty) Ltd v City of Johannesburg Metropolitan Municipality*.¹² In that case, The answering affidavits were submitted by Mr. Tuwani Ngwana, a legal advisor who asserted he had "personal knowledge" of their contents but did not provide evidence to support this. He frequently cited information from unnamed colleagues without securing confirmatory affidavits from them.¹³

In the case of *Millu v City of Johannesburg Metropolitan Municipality and Another*,¹⁴ the Deputy Judge President of the Johannesburg High Court said that “the City’s practice of tasking legal advisors to depose to the affidavits is a manifestation of the City’s recklessness, as the legal advisors lack the knowledge of the accounting, and he shields the anonyms officials who compose the accounts from liability”. The court further held that this practice must stop.¹⁵ Despite this warning, the City continues persist with this practice.¹⁶

Additionally, the Court in *Robindale Five (Pty) Ltd v City of Johannesburg Metropolitan Municipality*, also raised an issue with the answering affidavits not properly addressing the contentions of the matter or the points raised by the Applicants in their founding affidavit. The Court chastised the City for the general formulation of its pleadings in application procedures. These often include argumentative contentions, long quotations which are not relevant and show a ‘copy and paste’ exercise without the deponents actually taking note of the contents. For example, in the current matter, the deponent claims in paragraph 110 of the answering affidavit, that the Applicant does not pay, however the court found in the Applicant pays for part of the consumed services.¹⁷

The current Court holds that punitive costs must be justified and issues a similar order to those in *Millu* and *Robindale* regarding Mr. Ngwana's conduct as mentioned in this judgment. Mr. Ngwana is invited to submit representations within twenty (20) court days of this order's publication, explaining why he should not be personally ordered to pay 20% of the costs incurred in this application. If he fails to do so, a supplementary order to that effect will be made.¹⁸

CONCLUSION

In conclusion, the Court determined that the City unlawfully disconnected the electricity supply and upheld the Applicant's request, ordering the City to restore the electricity supply.

The Court also ordered punitive costs in light of the City's bad practices and has provided the Legal Advisor 20 days to formulate reasons why they should not be held personally accountable.

Please note: Each matter must be dealt with on a case-case basis, and you should consult an attorney before taking any legal action

¹⁴*SS Geranium Mansions v The City of Johannesburg Metropolitan Municipality and Another* (2024/056921) [2025] ZAGPJHC 110 (10 February 2025) at para 6

²*Ibid* para 3

³*Ibid* para 1

⁴*Ibid* at para 11

⁵*Ibid* at para 11-12; COJ Credit Control & Debt Collection Policy Review: June 2022, approved August 2022 at para 29.1.12 – 29.1.113

⁶39 *Van der Merwe Street Hillbrow CC v City of Johannesburg Metropolitan Municipality and Others*, unreported judgement of the Gauteng Division, Johannesburg, case number 23/7784 (24 March 2023)

⁷*Credit Control and Debt Collection By-Laws City of Johannesburg GN 1857 GG 213*, 23 May 2005

⁸*Supra* note 6 at para 19

⁹*Joseph and Others v City of Johannesburg and Others* (CCT 43/09) [2009] ZACC 30; 2010 (4) SA 55 (CC); 2010 (3) BCLR 212 (CC) at para 61

¹⁰*Supra* note 1 para 16

¹¹*Ibid* at para 32

¹²*Robindale Five (Pty) Ltd v City of Johannesburg Metropolitan Municipality* (2024/136466; 2023/077080; 2020/15428) [2025] ZAGPJHC 30 at para 2

¹³*Supra* note 1 at para 33-34

¹⁴*Millu v City of Johannesburg Metropolitan Municipality and Another* (25039/2021) [2024] ZAGPJHC 419 at para 45

¹⁵*Supra* note 1 at para 35

¹⁶*Ibid* at para 37

¹⁷*Ibid* at para 38-40; *Robindale supra* note 12 at para 106

¹⁸*Ibid* at para 41-42



Charissa Kok
(Partner)



Nicholas du Toit
(Associate Designate)



Tshiamo Tabano
(Candidate Attorney)