



UNIVERSITEIT-STELLENBOSCH-UNIVERSITY
jou kennisvenoot • your knowledge partner

**IN THE STUDENT COURT
OF
STELLENBOSCH UNIVERSITY HELD IN STELLENBOSCH**

21 October 2013

In the matter between:

Dumo Majombozi

Applicant

ADVISORY OPINION

MAJIEDT C (Rive LF and Van Zyl CE concurring)

- [1] The order set out at the end of these reasons for judgment was made on 18 October 2013. I indicated at the time that I would provide reasons for the order later. Those reasons now follow.
- [2] The matter before me is an advisory opinion when a member of the Tygerberg Student Representative Council ("TSR") submits an written resignation in terms of section 25(1)(c) of the Tygerberg Constitution¹ to the TSR what date must be use as reference in calculating how many days have went past since the election of the TSR. Should the date when the member in question presented the secretary of the TSR with his or her written resignation be used as reference or the date in terms of section 25(1)(c) when the written resignation becomes binding?
- [3] Section 25 of the Tygerberg Constitution states:

¹ Tygerberg Student Constitution of Stellenbosch University.

25 End of membership of the Tygerberg Student Representative Council

- (1) The membership of a Tygerberg Student Representative Council member comes to an end when -
 - (c) the member presents a written resignation to the Secretary of the Tygerberg Student Representative Council. This written resignation will become binding after five (5) days if not withdrawn.

- (3) If any other member of the Tygerberg Student Representative Council ceases to be a member of the Tygerberg Student Representative Council during his or her term of office, then the Tygerberg Student Representative Council must decide whether that member's position is to be filled, and if the Tygerberg Student Representative Council decides that the position is to be filled and –
 - (a) less than forty (40) University days have passed between the election of the member in question and the day he or she ceased to be a member, then the available candidate who received the most votes in the election (in which the out-going Tygerberg Student Representative Council member was elected), but was not elected to the Tygerberg Student Representative Council, must fill the position; or
 - (b) forty (40) or more University days have passed between the election of the member in question and the day he or she ceased to be a member, or there is no available candidate in terms of paragraph (a), the Tygerberg Student Representative Council must call a by-election to fill the position.

- [4] It is evident from the reading of section 25(1)(c) that the membership of a member on the TSR will only come to an end after the member have presented the secretary of the TSR his or her written resignation. Further that 5 days should have lapsed since the member in question has provided the secretary of the TSR his or her written resignation.

- [5] The Court is therefore of the opinion that the membership of a member of the TSR will only come to an end in terms of section 25(1)(c) after 5 days have lapsed since a member had given notice of his or her intention to resign from the TSR by presenting the secretary of the TSR with his or her written resignation. Therefore the date of the resignation should be the date after 5 days have lapsed since he or she had given notice of his or her intention to resign from the TSR.

- [6] Further section 25(3) describes the procedure the TSR must follow in the event a member of the TSR ceases to be a member of the TSR during his or her term of office.

Shue

Louise Rive

Majie

Cernyn Majiech

Elize

Elize van Zyl