

Axed Prasa board chair goes to court to get his job back

By [Steve Kretzmann](#)

23 Aug 2023

Leonard Ramatlakane argues that if he did anything wrong it was minor and unintentional.



The PRASA property at 18 Mill Street, Newlands, Cape Town, which axed board chairperson Leonard Ramatlakane rented for three months, had not been rented out by the rail agency for eight years, according to Ramatlakane's affidavit before the High Court. Photo: Steve Kretzmann | GroundUp

- The chair of the board of the Passenger Rail Agency of SA (Prasa) Leonard Ramatlakane was dismissed by the transport minister on 30 May after renting a Prasa property at a “hugely discounted” fee.
- Ramatlakane has approached the Western Cape High Court, claiming his dismissal was unlawful, to seek R500,000 in lost earnings.
- He argues that the board had no authority to commission an enquiry into the matter, and that, contrary to the minister's assertion, he contravened no legislation.

Axed Passenger Rail Agency of South Africa (Prasa) board chair Leonard Ramatlakane is taking the transport minister and Prasa to court to fight his dismissal, and to be paid the R500,000 he would have earned from his stipend until the end of his term in October.

Ramatlakane was dismissed from his position at Prasa by Minister of Transport Sindiswe Chikunga on 30 May after renting a Prasa property in Cape Town from December 2022 to March 2023 at what the minister stated was a “hugely discounted” fee.

In her letter of dismissal, Chikunga stated the lease agreement was “a prohibited conduct between Prasa and yourself”, a conflict of interest, and contravened the Board Charter and Ramatlakane’s fiduciary duties.

She stated that in entering the agreement, in which Ramatlakane paid R12,500 a month for a property valued by Prasa’s real estate department at R24,821 per month, he contravened the Legal Succession of Transport Services Act, which states the purpose of the property is to generate profit. By using his position for personal gain, he contravened the Public Finance Management Act.

In his notice of motion, filed at the Western Cape High Court on 3 August, Ramatlakane argues that he did not contravene the acts and that there is a reasonable suspicion of bias against him. He argues if there was any transgression on his part, it was unintended and not serious enough to warrant dismissal.

In his affidavit he states he needed to find temporary accommodation from December 2022, due to major renovations at his home in Monte Vista, Cape Town. Struggling to find accommodation over the summer holiday season, he asked the Prasa property management division if he could rent a Prasa property, stating he only needed a two-bedroom property.

He states the response he received from Prasa real estate manager Neil Engelbrecht was that the rental would be R24,821 per month, excluding water and electricity.

Ramatlakane says he stated he couldn’t afford that much, and asked about “a possible alternative”, as Prasa manages a number of properties. He says he expected Engelbrecht to direct him to more affordable alternative accommodation.

He says he then received a call from acting Prasa Corporate Real Estate Solutions (CRES) regional manager Moseli Ntsiki, saying the rental had been reduced to R12,500 per month. Ramatlakane says he believed the reduced amount was because he was only requiring two bedrooms in the four-bedroom property.

He says subsequent internal emails that came to light in a commissioned report on the lease arrangement by auditing firm SNG Grant Thornton, revealed the reduced rental was a special arrangement.

Grant Thornton report

Attached to the Grant Thornton report was an internal email from acting Prasa CRES CEO Annette Lindeque to Engelbrecht, stating, “Propose an amount of R12,500 per month as a 50% of the market rental. Your letter must be clear that it is a special arrangement granted by management due to a short period, upfront payment and being a member of the BoC (Prasa Board of Control).”

Although Engelbrecht was instructed to make it clear this was a special arrangement as Ramatlakane was a member of the board, Ramatlakane claims he never did so.

“It is accordingly not the case that I was aware that an accusation could be levelled at me that I was ‘taking improper advantage of the position’ I held as Chairperson of the Board”, which would contravene the members’ code of conduct, argues Ramatlakane.

He said there is nothing in the code of conduct preventing a board member from leasing a Prasa property, and the lease he signed on 17 December 2022 (after taking occupation on 15 December) was for 228 square metres, which is half the size of the Newlands property.

Following a *Sunday Times* article of 5 March, headlined [‘Bankrupt Prasa’s chair lives in company-owned luxury home’](#), an urgent board meeting was called for 6 March, in which it was decided an external independent enquiry by SNG Grant Thornton be conducted on the lease. Ramatlakane says he recused himself from deliberations on matters in which he was involved.

The board had misgivings about its authority to conduct an investigation, which he asserts should be authorised or conducted by the minister. The resolution to proceed was made before advising the minister, and without her authority. Having recused himself, he was not aware this decision had been taken, he says. He was only told later that evening when board member Thinavhuyo Mpye called to tell him Grant Thornton would be commissioned. He heard nothing further, including no invitation for consultation by Grant Thornton, until he was told a meeting would need to be held because the 14-day enquiry period was almost over.

Right to fair process

He says there was also a gross violation of his right to a fair and impartial process in that before the presentation of the report, Mpye and fellow board member Johnny Motlogelwa had met Minister Chikunga to present the board’s recommendations.

“For board members to meet with the ultimate decision-maker, and to inform her of the board’s recommendations, before the board had met or was even aware of the contents of the report, could not but indicate bias or misconduct on the part of the board, or at least the members concerned, and be designed to poison the minister’s mind against me before I was even aware of the report, or had been given an opportunity to respond thereto.”

A Grant Thornton investigator held a virtual meeting with him on 22 June in which portions of the report were presented. He says what he saw of the report was remarkably similar to the later final report, and believes he was contacted to essentially “fix” the report due to the fact he had not been approached for comment.

He says the virtual meeting focused on his response that R24,000 a month rental was “out of reach” and whether this constituted a request for a discount.

The questioning concluded, according to Ramatlakane, with the investigator stating that in Grant Thornton’s view, he had received a benefit and it ought to have been declared to the board.

Ramatlakane says he responded that he was not aware he received a benefit, and if he did, he would have no problem declaring it.

He says he subsequently wrote a letter to the Prasa secretary prior to the normal 31 March declaration date, stating it had come to his attention a benefit had accrued to him due to a discount on the lease decided by Prasa management.

He said there was no mention in the report of him having contravened the Public Finance Management Act, the Companies Act, or the Transport Services Act. There was also no reference to the Members’ Code of Conduct.

Yet, these were contraventions the minister accused him of when she requested representations from him, and they were contained in her letter of dismissal.

Additionally, he says, after requesting a meeting with the minister in early April, she had said she had not yet read the report and would discuss the report in person with him once she had read it. No such discussion ever happened, he says.

Administrative justice

He also argues his dismissal constituted an administrative act on the part of the transport minister, governed by the Promotion of Administrative Justice Act (PAJA), in which case the minister’s decision had no lawful basis.

This, he argues, is because the investigation which resulted in his dismissal was not initiated nor overseen by the minister, but by the board, despite the fact that it was the minister's duty, not the board's or Prasa's, to exercise the power conferred in the Transport Services Act.

Accordingly, the minister did not initiate or oversee the investigation.

"In particular, she neither provided the terms of reference to Grant Thornton, nor had any insight, whether personal or delegated, into the manner in which Grant Thornton conducted their investigation," he argues.

"To this day she seemingly remains ignorant of the correct facts, or the serious flaws in the process, to which I have alluded in detail."

He says he had, in good faith, on 24 May paid the amount of R38,874 found by the report to have been a shortfall, and dismissal was not commensurate with the "alleged and unintended transgression".

He notes that members of the Prasa board were found to have incurred more than R3.1m in irregular expenditure, and that then-board chairperson Popo Molefe had paid back R680,000 without being dismissed.

This, he says, highlights his dismissal for "comparatively minor unintended transgressions" to be disproportional and inconsistent.

He notes a parallel investigation by the Special Investigating Unit (the Hawks) found evidence against him was circumstantial and "insufficient to proceed with investigation" and withdrew all charges against him "relating to the incident".

He concludes there were "fundamental breaches" of his right to a lawful, reasonable, and procedurally fair administrative action and due to his "unlawful dismissal" by the minister, he had not received his monthly stipend of R100,000 per month, which he would not receive for the months of June to October, when his term was due to end.

He therefore asks the court for Prasa to pay him R500,000 as part of "just and equitable relief", and that a costs order be made against the respondents.

It is understood that responding affidavits will be filed to the court next week.

This article was [originally published on GroundUp](#).

© 2023 GroundUp. This article is licensed under a [Creative Commons Attribution-NoDerivatives 4.0 International License](#).

For more, visit: <https://www.bizcommunity.com>