

HOW TO FIND YOUR STRENGTH IN THE WORKPLACE

Category: Commercial Law

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Employees are often not aware of the power they have against their employer. As an employee, you have a duty to yourself to exercise your rights in a just and reasonable manner. This will allow you to exert some power against the employer in instances of infringement against your rights.

South Africa has extensive laws aimed at regulating the working relationship: the Constitution of the Republic of South Africa, 1996 ("the Constitution"), the Labour Relations Act 66 of 1995 ("LRA") and the Basic Conditions of Employment Act 75 of 1997 ("BCEA"). The LRA provides for the rights of employees. The purpose of the LRA is to give effect to and regulate fundamental rights in the workplace – in essence, it gives teeth to section 23 of the Constitution. As an employee you have rights which no man or women can take away from you regardless of their status. Don't allow yourself to be bullied by your employer.

Here are some key points of protection afforded to employees:

Section 23 of the Constitution provides that:

- Section 23 (1) – every employee has a right to participate in the joining and forming of a trade union or a federation of unions.
- Section 23 (2) – every member of a trade union has a right to participate in the lawful activities of a trade union.

Section 5 of the LRA:

- No one may discriminate, prevent or prejudice someone who exercises his/her rights to freedom of association.

The BCEA includes rights to:

- Annual/ sick leave
- Overtime
- Working hours
- Sunday work and public holidays

A common infringement in the workplace is unfair dismissals. It is important to understand the consequences relating to unfair dismissal and the remedies available to you.

Unfair dismissal refers to when an employee is dismissed from the organisation in an unjust or unreasonable manner. Employees who are unfairly dismissed may go to the CCMA or Labour court where the employer will be ordered to reinstate the employee or compensate the employee. These remedies depend on the surrounding circumstances of the organisation and the issue at hand.

To better equip yourself in the work environment, find out about the trade unions within the organisation, find out who is the majority union and if there is a minority union. Find out what relationship they have with the employer, what rights they have and any prior conduct they have had with the employer. The best thing you can do is join a majority union as they obtain majority rights to the workplace compared to minority unions.

In your employment contract, ensure you read the contract fully and understand each clause stipulated in the contract. Don't be scared to ask questions relating to the contract you are about to sign.

Where necessary, take the step and exercise your employee rights that were freely given to you. Show others that exercising employee rights won't result in them losing their jobs but rather allow them to better secure their jobs in a lawful manner.

By Robyn Reneke (Legal Intern)