

Suspension



Unfair Labour Practice (such as an unfair suspension) may now be disputed in the CCMA in terms of the Labour Relations Act (LRA) and in the High Court in terms of Contract Law.

To non governmental employees this means a double protection should a suspension be deemed unfair.

The right not to be unfairly suspended has a substantive and procedural component to it, namely:

Substantive fairness

- ↻ The Employer must have justifiable reasons to believe that the employee has committed serious misconduct; **and**
- ↻ There is an objective justifiable reason to deny employees access to the workplace either based on the integrity of the investigation into that misconduct or some other relevant factor that would place the investigation or the interests of another party in jeopardy; **and**
- ↻ The Employee must be given an opportunity to state a case before the employer makes a decision to suspend (this does not mean one must hold a formal hearing in order to suspend).

Procedural fairness

The above must be a discussion minuted accordingly and signed by both parties or the requisite witness.

Remember that the employee is not only limited to his/her rights in the LRA it has common law rights and other applicable legislations to use at his/her discretion.

