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SERVICE EXCELLENCE

FOR PSA MEMBERS: **CAPE NATURE**

12-05-2022

Arbitration: Interpretation and application of collective agreement after unilateral reduction of members' vacation leave accrual from 30 days to 24 days

It was previously reported that the above-mentioned matter was referred as a dispute to the CCMA. No settlement could be reached at conciliation and a certificate of non-resolution was issued. The matter was referred for arbitration. The employer's conduct in the reduction of leave from 30 to 24 days per annum does not only address the issue of leave, but also the Long-Service Recognition agreement that was reached in 2012. The PSA argued that the employer neither indicated that it was withdrawing from this resolution, nor was any consultative process followed.

Arbitration was conducted on 6 May 2022 and the Commissioner tried to have the matter settled. Cape Nature indicated that it is engaging service partners to try to obtain incentives, including *Vodacom* and *Cape Union Mart*. There is no finality to this initiative and the PSA couldn't agree to a settlement without a mandate from members. The PSA's mandate was that members want their leave accrual to be returned to 30 days leave, as it was prior to 1 July 2020.

Cape Nature's main argument was that the collective agreement reached in 2012 between the PSA and Cape Nature was only valid for three years and that this lapsed in 2015.

The PSA maintained that there isn't a new agreement that was reached. Hence, the conduct of the employer in reducing the leave credit of those employees with more than ten years of service is incorrect and unlawful. The employer never informed the PSA in writing of its intention to withdraw from the agreement.

The Commissioner will make a finding on whether the employer correctly interpreted the Collective Agreement of 2012 and will issue an award. Members will be informed of the outcome of the arbitration.

GENERAL MANAGER