

What is happening in Cape Nature?

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

Members will recall that it was previously reported that the above-mentioned matter was referred as a dispute to the CCMA. 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 between the PSA and Cape Nature. The PSA argued that the employer neither indicated that it was withdrawing from this resolution, nor was any consultative process followed.

The arbitration was conducted on 6 May 2023 and the Commissioner tried to settle the matter. Cape Nature indicated that it was engaging service partners to try and obtain incentives, including *Vodacom* and *Cape Union Mart*, to issue to members as a form of long-service recognition. There was no finality to this initiative and the PSA could not agree to a settlement without the mandate from members. The PSA's mandate was that members want their leave accrual to be returned to 30 days leave. Cape Nature's argument was that the collective agreement reached in 2012 between the PSA and Cape Nature was only valid for a period of three years, which period lapsed in 2015. The PSA maintained that a new agreement was not entered into, 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 Commissioner found in Cape Nature's favour, viz that the collective agreement regarding long-service recognition, which was concluded in 2012, was only valid for three years and thus lapsed in 2015. The PSA did not agree with the Commissioner's finding and the arbitration award was taken on review to the Labour Court. Approval for legal assistance was granted and the attorneys, Malcolm Lyons and Brivik Incorporated, were appointed to represent PSA members at the Labour Court. The attorneys have advised that the case has now been set down for hearing on 1 February 2024. The attorneys will now also prepare Heads of Argument and submit same to the Labour Court as per the directive of the Labour Court.

Members will be informed of developments.

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