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SERVICE EXCELLENCE

FOR PSA MEMBERS: **NORTHERN CAPE**

26-03-2024

Victory for PSA members

Department of Health Northern Cape

A PSA member in the Department of Health in the Northern Cape was summarily dismissed from the Public Service on 15 June 2023. The employer claimed that the dismissal was by operation of law. The Department of Health contended that the member absconded and was therefore deemed dismissed in terms of section 17 of the *Public Service Act*.

A brief definition of such dismissal is where an employee is deemed to have dismissed themselves. It means an employee absented themselves from work for a consecutive period of 30 days. The termination of employment is then done in terms of the *Public Service Act* section 17(3)(a), 17(3)(b) and 17(3)(c) of 1994 as amended. The PSA challenged the deeming provision in this case by referring representations on behalf of the member which were submitted to the MEC. The Union argued that the deeming provision had not been met and that there was no intention by the member to repudiate the employment contract. In the process the Union also referred the matter to the Public Health and Social Development Bargaining Council for unfair dismissal.

The first victory for the member was obtaining a favourable jurisdictional ruling as the department raised claims that PHSDSBC does not have jurisdiction to hear the matter. The great achievement was the actual Award itself where the commissioner ruled on a retrospective re-instatement. The PSA member is to return to work on 1 April 2024.

Reuben Maleka
GENERAL MANAGER