



FOR PSA MEMBERS: NORTHERN CAPE DEPARTMENT OF SOCIAL DEVELOPMENT

12-09-2025

Individual assistance to member

Misconduct: Repeated absenteeism

A member was fully represented by the PSA over two sittings of a disciplinary hearing. Upon the continuation of a disciplinary inquiry involving the Department of Social Development and the member, charged with absenteeism, it was revealed and raised by the PSA that the member suffers from alcoholism and depression, which are recognised medical conditions that may impact work attendance. The key points alluded to include:

- **Nature of misconduct:** Absenteeism may be linked to medical incapacity rather than misconduct.
- **Legal framework:** The *Labour Relations Act* and *Employment Equity Act* require employers to investigate and accommodate medical conditions before dismissal.
- **Duty to accommodate:** The employer must obtain a medical assessment, consider rehabilitation, and explore reasonable accommodations.
- **Case law:** Relevant cases emphasize the need for procedural fairness and accommodation of medical conditions before dismissal.

The Chairperson then ruled as follows:

- The disciplinary inquiry is suspended to allow for a medical evaluation of the member's condition.
- The medical assessment will determine the extent of the member's conditions, the impact on absenteeism, and the member's fitness to work.
- If absenteeism is linked to medical incapacity, an incapacity hearing must be initiated.
- The employer is encouraged to provide support, such as rehabilitation or adjusted duties.
- The inquiry will resume on 13 November 2025 if the medical report indicates no incapacity or if the member refuses to cooperate.

The ruling aims to ensure fairness and compliance with legal obligations whilst balancing the rights of both parties. The significance of this ruling is the prime representation and argument fostered by the PSA, which prove that whilst in other matters these suffering employees are dismissed, the PSA will go to all lengths to ensure that members receive the best representation and that fairness in misconduct proceedings prevail.

Reuben Maleka
GENERAL MANAGER