

FOR PSA MEMBERS: **MPUMALANGA**

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## Department of Employment and Labour

The PSA has once again demonstrated its unwavering commitment to protecting workers' rights by securing a significant victory for a member employed at the Department of Employment and Labour.

The matter arose when the employer effected arbitrary and inconsistent salary deductions over an extended period, amounting to 36 days' pay. These deductions followed the member's application for leave encashment, which was declined based on an alleged unauthorised absence.

The member did not accept this. He formally objected to signing an acknowledgement of debt and duly lodged a grievance, challenging both the basis and the process followed by the employer. Despite this, the Department proceeded to unilaterally deduct monies from the member's salary, which is a clear violation of labour legislation.

In terms of the *Basic Conditions of Employment Act (BCEA)*, particularly section 34, an employer is prohibited from making deductions from an employee's remuneration without the employee's written consent, unless the deduction is required or permitted in terms of a law, collective agreement, court order, or arbitration award. Furthermore, where an employer alleges unauthorised absence, due process must be followed, including proper investigation and allowing the employee to be heard before any financial recovery can be effected. In this case, the employer failed on both fronts, acting without consent and without following fair procedure.

The PSA, through its Department of Employment and Labour structure and Provincial Office, made numerous attempts to resolve the matter amicably. Several letters and follow-ups were submitted, yet the employer merely provided assurances without taking corrective action. No reimbursement was made. Compounding the challenge, the member is a middle manager earning above the earnings threshold set in the *BCEA*, which meant that the CCMA lacked jurisdiction to adjudicate the dispute.

Left with no alternative, the PSA escalated the matter by invoking section 73A of the *BCEA* and instituting legal proceedings in a competent court to recover the unlawfully deducted funds. Faced with imminent legal consequences following correspondence from the PSA's legal team, the employer ultimately conceded and reimbursed the member in full, an amount of R81 124.24.

The member has expressed immense relief and gratitude, noting that he is satisfied that his hard-earned money has finally been returned. This victory sends a strong message that employers cannot act outside the bounds of the law with impunity.

The PSA remains steadfast in ensuring that members are protected against unfair labour practices and unlawful financial prejudice.

Reuben Maleka  
GENERAL MANAGER