



FOR PSA MEMBERS: **NORTH WEST, NORTHERN CAPE, AND MPUMALANGA**

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## Advice: Unauthorised use of employer property

The PSA remains members' dedicated shield in the workplace, ensuring fairness and the protection of rights. The PSA must, however, address an escalating trend in South African labour law. Recent judgements from 2024 and early 2025 reveal that the Labour Court and the CCMA/Bargaining Councils are taking an increasingly firm stance on the unauthorised use of employer property. What was once viewed as a "minor infraction" is now frequently classified as a fundamental breach of the fiduciary duty and the trust relationship. This *Informus* aims to educate members on these critical legal shifts to ensure conduct remains beyond reproach.

### Critical legal precedents (2024 to 2025)

The judiciary has recently reinforced that "dishonesty" is the common thread in property misuse, regardless of the item's value.

#### "Trust" Precedent: *Khumalo v CCMA* [June 2025]

- The case: The Labour Court reiterated that dishonesty fundamentally undermines the employment relationship.
- The ruling: The Court held that when an employee's integrity is in question - such as through the misappropriation or unauthorised use of assets - the monetary value of the goods is irrelevant.
- Critical lesson: You can be dismissed for misuse of property worth R10 just as easily as property worth R10 000 if it proves a lack of "straightforwardness".

#### Standby Duty and Vehicle Misuse: *City of Cape Town v CCMA* [September 2025]

- The case: An employee on standby used a work vehicle for a personal trip, arguing they were "available for work" anyway.
- The ruling: The Court ruled the dismissal fair, stating that standby duty is not a license for personal benefit. The unauthorised use of a vehicle is a "dishonesty-related" offence because it deprives the employer of the asset's intended use and increases risk.

#### Instructions are No Defence: *Mbuyane v Dekker NO* [2025]

- The case: An employee claimed to be "just following orders" from a supervisor to mismanage assets/records.

- The ruling: The Labour Court held that an employee has a positive duty to refuse an unlawful instruction. Compliance with a superior's request to misuse property does not excuse the employee's own misconduct.

### **Critical information: "Unauthorised Possession" Trap**

Members often confuse "Theft" with "Unauthorised Possession." Under current law (*Continental Oil Mills v Singh*), the employer does not need to prove that you intended to steal.

Legal standard: If you are found with company property outside of your authorised area without a permit, the law presumes a breakdown in trust. "I was going to bring it back" is historically one of the weakest defences in a disciplinary hearing.

### **Essential advice for PSA members**

To safeguard your career and your family's future, the PSA strongly advises the following:

- "Email of Authority": Never rely on verbal permission. If a supervisor tells you that you can take a laptop home or use a work vehicle for an errand, send a confirming email immediately: "As discussed, thank you for the permission to use X for Y purpose today."
- Zero Expectation of Privacy: Recent rulings confirm that employers may monitor state-issued devices. Do not store personal documents, side-business plans, or sensitive images on work hardware.
- "Gate Pass" Rule: Even if you are just taking a chair to another building for a meeting, ensure you follow the formal asset-tracking procedure.
- Report incidents immediately: If a company vehicle is scratched or a laptop is damaged whilst in your care, report it within the hour. Delays in reporting are often interpreted by Courts as an attempt to hide "unauthorised use".
- Refuse unlawful orders: If a manager asks you to use state property for their personal benefit (e.g., using a state vehicle to move their private furniture), decline and report it to your PSA shop steward. "Following orders" will not save your job.

### **Conclusion**

The PSA is here to protect members, but the Union cannot fight against clear evidence of dishonesty or gross negligence. Protect yourself by being the most professional version of yourself. Integrity is the only currency that never devalues in the Labour Court. "Your job is your life. Protect it with integrity."

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