

Load shedding is killing the retail motor industry



Daily load shedding, coupled with skyrocketing fuel and diesel prices, have become the norm and the economy can't take it anymore.

Martlé Keyter, MISA's Chief Executive Officer: Operations, says dealerships dealt with a severe blow in August 2023 when new vehicle sales fell by 6,7% compared to the previous month.

"The impact is not only limited to vehicle sales, but includes the rest of the value chain in the industry."

"We know it was just a question of time before dealerships were going to bear the brunt of negative factors working against our economy, which include the weak rand, high interest rates, and the political blame shifting as party's campaign for the general elections in 2024.

"The impact of interest rates alone should not be underestimated, being at its highest in 14 years, consumers have no alternative but to cut back on spending. They are downscaling on vehicles and they are trading in two vehicles, which is now considered a luxury, and driving with one," says Keyter.

With the South African Reserve Bank having increased interest rates to combat rising inflation, it is more expensive to borrow money to get vehicle finance. Therefore consumers will have no choice but to cut back on spending, which will lower demand. In the long run, a lower demand will assist with a drop in prices.

AutoTrader reports the opposite happened in the used car market. The number of used cars sold in August 2023 grew by 12% month-on-month. The cumulative value of used cars sold to date, has reached over R14 billion, reflecting a year-on-year growth of 10.5%.

"Economists describe the situation as the perfect storm. Households, businesses and industries are struggling under considerable pressure due to the ever-present load shedding. All the cumulative challenges impacting household expenditure, are now at its harshest," says Keyter.

The rising international fuel prices, responsible for the fuel hikes in September and the predicted hikes in October, is making matters worse.

A recent survey indicated that 30% of middle-class consumers have bought a car in the past year. 82% of these consumers indicated that fuel consumption was the most important feature when buying a car.

"The high cost of living and the declining take-home pay, has a severe negative impact on mental health, especially in a male dominated industry that is performance driven", says Keyter.

In recent months there has been a few suicides in the industry that came to MISA's attention.

Keyter says mental health in general, specifically suicide, remains largely hidden from the public eye. There are no accurate statistics due to underreporting, stigma and limited data collection.

The World Health Organisation (WHO) estimates a 90% increase in the global suicide rate in 2023. South Africa's suicide rate ranking third highest in Africa.

According to the South African Depression and Anxiety Group (SADAG), an average of 23 suicides and 230 serious attempts are recorded per day.

Keyter says these alarming statistics is why MISA will be hosting a bikers rally to Clarens in the Free State to raise awareness for SADAG's over 160 free Support Groups nationwide. Read more about the upcoming rally on 18 and 19 November 2023 on pages 10 and 11.

"Whether or not you have trouble at work, financial distress or can't cope with overwhelming emotions. With MISA help is just a phone call away. The Union uses the networks our Women's Forum and Young Workers' Forum have built over the years to connect members to non-profit organisations who can help them," says Keyter.

Suicide is never an option.

If you need help, contact the Suicide Crisis Helpline on 0800 567 567 or e-mail us at endGBV@ms.org.za





Message from *Martlé Keyter*

MISA CEO: OPERATIONS

MISA is the best trend setter

MISA is privileged and blessed to be the fastest growing trade union in the retail motor industry with more than 61 000 members putting their trust in us.

MISA is setting the trend for trade unions in South Africa, highlighting the importance of service excellence and what a modern trade union needs to do, not to become a global statistic.

Globally trade union membership continues to decline, South Africa being no exception. According to the Department of Employment and Labour only 23% of employees belong to a trade union.

This Union's success did not go unnoticed by our rivals and that has brought about numerous unfortunate attacks and attempts to derail MISA from its success story.

From name calling to aggressive confrontations with MISA's Recruitment and Liaison Officers nationwide, while they are serving members. The spreading of malicious stories are all part of this smear campaign.

This won't unsettle MISA's leadership. We have been around the block and are seasoned trade unionists who have, in our own unique ways, played a significant role in shaping industrial relations within the motor retail industry.



Martlé Keyter

But the tactic says a lot about our rivals. Section 23 of the Constitution states every worker has the right to fair labour practise. That includes the right to form and join a trade union. This is something some employers tend to forget 29 years into our democracy.

They don't tolerate unions, threatening employees belonging to trade unions. These are employers not educated about what MISA brings to the table, which include excellent financial benefits the employer cannot provide to employees.

But most important, is the Legal Department that is simply the best in the industry. Never say never. Unforeseen incidents at work happens

to all of us. And when that happens, you have access to a team of qualified and experienced professionals with vast experience.

The last two things Section 23 of the Constitution guarantees is the right to participate in the activities and programmes of a trade union and the right to strike as a last resort.

But it does not give one trade union the right to interrupt another trade union from addressing employees. And it certainly does not give one trade union the right to intimidate or assault the members of another trade union if they don't want to strike.

The recent illegal strike of the South African Municipal Workers Union (Samwu) is an excellent example of what trade unions should not do. Thanks to an illegal strike, 122 workers lost their jobs and more than 450 employees got their salaries revoked.

The City of Tshwane employs 29 000 municipal workers. Services in the City has been disrupted for two months and while workers are not getting money, they will now also be in contempt of a court order should they continue to stay away from work.

Intimidation, assaults on employees reporting for work and the burning of infrastructure are at the order of the day. Even worse is the growing revolt from taxpayers. They are now saying no services, no payment.

There are no winners.

Trade unions should think twice before they pick a fight. Intelligent employees are well aware of their constitutional rights.

Choose MISA, the intelligent alternative and fastest growing trade union in the retail motor industry.

MISA makes matric farewell fairy tales come true

Uviwe Gobadwana, a learner at the Molly Blackburn Secondary School in Gqeberha in the Eastern Cape, had a fairy tale Matric Farewell, thanks to MISA.

She is the daughter of MISA member Bongolethu Klaas, a General Worker at Nissan.

MISA's Beauty and the Beast Project gives Matric learners the opportunity to enjoy a fairy-tale farewell.

Karen Gouws, coordinator of the project, says MISA realised that some of its members could not afford the cost of a matric farewell.

MISA assisted them through its established network of service providers with whom the Union had built a relationship over the years.

Uviwe's dance was held at Arabest in Despatch.

A special thank you to Fadiyah Maarman, MISA Women's Forum Participant, for making all the arrangements.

Any MISA member can apply to be part of this project. T's & C's apply

"The aim is to help as many matric learners as possible to experience this once in a lifetime opportunity," says Gouws.

For information contact Karen Gouws on 041 364 0102 or Karen.Gouws@ms.org.za



Uviwe Gobadwana and Bongolethu Klaas

Fairy tale final touches



Jamie Cornelius

Every Cinderella needs a carriage on her dream day.

Jamie Cornelius (17), a Grade 12 learner at the Chapman High School in Gqeberha in the Eastern Cape.

Jamie needed transport to her Matric Farewell. She is the niece of MISA member Samantha Cornelius, who is also her guardian.

Cornelius is part of the Union and has been involved with the work of MISA's Women's Forum since 2020.

Jamie thanked MISA for making her night complete.

"My Aunt planned everything prior however, the only thing left transport. I will never forget my beautiful Matric Farewell."

"MISA did not disappoint. It is remarkable seeing that there are such organisations that look after its members like this."

Jamie plans on studying for a Bachelor of Education Degree next year.

She is passionate about children.



Access your Fund Credit and Benefit Statements

- ▶ Dial *134*20054# to obtain your latest fund credit
- ▶ WhatsApp 011 561 9301 (Fund Credit, Current Benefit Statement, Annual Benefit Statement)
- ▶ Register at <https://portal.mirf.co.za/openaccess/MemberAccessRegistration.aspx>
Please use your ID Number and your Council Number to access your Fund Credit and Benefit Statements.



MISA empowered it's members for greater things

Continuous learning is the beginning of greater things to come.

Nelly Fikile Nkosi's (45), a MISA member, is on track to achieve her dream thanks to the help of Amandla Kuse, MISA's National Training Officer.

"I am working towards becoming an Administrative Officer. The training that I have received to date is making a big difference in empowering me to do my daily duties. This is thanks to Kuse's guidance and assistance from the beginning until the end."

She is a Receptionist at Motus in Nelspruit in Mpumalanga since 2018.

Nkosi joined MISA in 2019 after Thulani Maseko, one of the Union's Recruitment and Liaison Officers, recruited her. He explained to Nkosi that as a MISA member, she could apply for the Soft Skills Training and Study Assistance Benefit of up to R10 000 annually.

"I studied at Creative Minds in Nelspruit to achieve my qualifications in Microsoft and Outlook. As a mother, I am very proud of what I have managed to accomplish. No one can take it away from me.

"I know that this is the beginning of greater things for me. I will continue to learn," says Nkosi.

Kuse explains MISA members qualify for a maximum of three Soft Skills Training



Nelly Fikile Nkosi

interventions per year. This is included in the monthly contribution of each MISA member.

Soft Skills Training courses include Telephone Etiquette, Health and Safety, First Aid, Receptionist, Employment Equity Committee Training, Microsoft Office Applications,



Amandla Kuse

Customer Service, Business Presentation Skills and Time Management.

For more information on MISA's Soft Skills Training, e-mail Training@ms.org.za or call MISA's Training Department directly on 011 476 3920.

Colleen completed her beautiful puzzle with MISA

Colleen Joubert will be retiring at the end of this month, with a happy heart, knowing that the scabbled puzzle of 25 years ago is now a beautiful completed picture.

This Financial Manager of MISA believes that it was God's will that she became part of the MISA family.

"I am very grateful that Hermann Köstens, Martlé Keyter (MISA CEOs: Strategy and Development and –Operations, respectively) and MISA's National Executive Committee saw my potential. They trusted me to run the Financial Department, which has been a highlight of my career," says Colleen.

Under Colleen and her amazing team, MISA received unqualified audits to date.

She has very fond memories of her time at MISA. She remembers once telling her husband, Marinus, that her boss was so angry, he came flying out of his office.

"My daughter Crystal, then a mere 2 years old, sitting with us at the dining table, wanted to know where he flew to."

Martlé and Hermann would like to thank Colleen for not only being a pillar in senior management, but also for being a confidant to them both during difficult times.

Keyter compared Joubert with the following

quote: "A woman of substance has the courage to overcome tough times in her life and pursue her goals because she stands up for what she believes in and never gives up on her values and virtues".

Colleen says she always remained true to herself. "Greater is He that is within me and I am honoured that people trusted me and felt safe. I believe that every day is a blessing and we must never take anything for granted. Every person is a precious treasure from God, irrespective of your position in life."

She looks forward to not wearing a watch and having her time to herself.

"I want to put my watch in a drawer and live life to the fullest. I would like to continue with charity work and spend time on things I'm passionate about."

She does not have enough words to thank her husband and two children, Pieter and Crystal, for their unwavering support over the years.

"Even the small things, like carrying my bag to the car, pulling out the car, opening the gates. I will never forget that."

"It has been an honour to serve MISA and its members. It would not have been possible



Colleen Joubert

without the support of past and present colleagues. Last but not least a special thank you to my amazing team Cornelia Bezuidenhout, Karyn van den Berg and Elmari Groenewald. Your devotion and dedication to myself and MISA will never ever be forgotten"

Climbing the ladder since MISA Women of the Year

MISA's Second Vice-President Nolwazi Reneé Ntshingila (38) has come a long way since she won the MISA Woman of the Year Award in 2012.

She plays an important role in the Union's Young Workers Forum and is a role model and inspiration to many because she has always been passionate about gender equality, the youth and education.

"Young people sometimes need a little push and to be shown the correct direction to know how to navigate through it all. It is important that they know you have a keen interest in their development and achievements."

She is a mother and is very active in the community of Umlazi in Durban, KwaZulu-Natal where she grew up. Reneé will never forget the lessons her parents used to teach her.

"I was taught to always be thoughtful, help people and be kind."

She started as a Receptionist in the retail motor industry more than 13 years ago.

She believes her heart and kindness made her stand out.

As MISA Woman of the Year she won an educational trip to Berlin in Germany which

has opened her eyes in many ways. It was interesting for Reneé to experience and meet people from different countries and to realise they face similar challenges within the motor retail industry.

Today she is the Parts Manager of a Dealership.

"I learned so much and grew as a person. I did not realize I had more in me and looking back I am proud of all I have achieved and grateful for the opportunity. "Some do not even know how to navigate life after school, so it important to be a constant reminder of how far they can possibly go," says Reneé.

She was elected as Second Vice-President of the Union in 2021.

Reneé joined MISA's KwaZulu-Natal Regional Committee in 2015 and served as the Chairperson of the MISA Young Workers Forum until 2022.

"Women should believe that they are good enough and that what they are doing is enough. All the best to the MISA Woman of the Year Finalists for 2023, get up there and do what you love.

"I would love to further my studies and have my own dealership in the near future while continuing to make a difference," says Reneé.



Nolwazi Reneé Ntshingila

Woman of the Year opportunity of a lifetime when least expected

Bernadine Harmse (43) of Pretoria couldn't have known that holding a temporary reception position for two weeks at Mercedes-Benz Fountains in Pretoria will open doors for her career.

Harmse became a permanent employee after relieving for someone for two weeks and her career changed for the better.

This Dealership Clerk & Learning Co-Ordinator has been part of the motor retail industry for 16 years and a MISA member for 7 years.

She remembers not joining a Union as she had the perception that joining a Union means that you are a troublesome person at work, Ruth Alblas, MISA's Recruitment and Liaison Officer, at the time convinced her to join MISA.

Harmse got nominated for three consecutive years before 2020, when she was nominated by a colleague without even knowing. Her journey was full of surprises as she never thought that she would win.

"Winning MISA Woman of the Year 2020 was surreal. My heart was seen and that is what I believe pushed me to win. My journey was different as I won during the Covid-19 pandemic, however I am still grateful for my journey and MISA.

"Since joining MISA, I have been appointed as a Women's Forum Representative, joined the Northern/Highveld Regional Committee and the National Executive Committee (NEC). I have completed quite a few training interventions with MISA and can confirm that nothing is ever too much for the union.

"I only went on the educational trip this year with the current MISA Woman of the Year, Monique Dalhouzie, to the annual NADA Show in Dallas, Texas. I learned so much during the trip, which I implemented in my day-to-day life at work. I am grateful of what MISA has done for me," says Harmse.

Harmse has always been passionate about equality, for women to have the same opportunities as their male counterparts. Not forgetting empowerment and education, as not everyone can afford education.

She encourages women not to be afraid, because the worst thing in life is not taking a chance. Women should nominate each other or themselves, because women can do great things. Harmse lives by the motto "just do it".

"There's nothing to lose, you can walk out with so much knowledge instead. This year I decided to recharge myself to start working on bigger and better projects in 2024 outside of work. I want to be physically, mentally and



Bernadine Harmse

emotionally fit for 2024."

"The growth and knowledge gained from my experience with MISA is out of this world and unmeasurable. Since starting my career 16 years ago, I have been taught and guided and because of this I also want to make a difference in someone's life at work by upskilling and teaching them the same way I was taught. Nothing excites me like the retail motor industry, it suits my personality perfectly.

"I am grateful for everything, nothing MISA does is half-hearted. #MISACARES, I have seen their dedication and commitment. I have experienced it. This Union wants to see their members grow," says Harmse.

Finalist wants to prevent gender-based violence

Nolene Oosthuizen (25) might only be in the retail motor industry for the past nine months, but she dreams of making a big success of her career and change the lives of victims of gender-based violence.

“I grew up in a house where domestic violence prevailed and I believe no child should be exposed to it,” says the Service Administration Manager at Swedo-Tech, Bloemfontein in the Free State.

Oosthuizen joined MISA when she entered the retail motor industry enjoying the excellent financial benefits that the Union provides to its more than 61 000 members.

She has just been announced as the MISA Woman of the Year 2023 Finalist for the Free State/Northern Cape Region. She replaces Kim Vorster (Tyrannis), who had to withdraw after leaving the retail motor industry. The gala event will be held on 8 November 2023.

Her priority is to provide the best possible home for her three daughters aged 5, 3 and 2. She recently divorced because she feared that her marriage was heading in the same direction as her parents’ and wants to prevent that.

“I believe it is best for children to have two happy homes than one unhappy one. I want to inspire victims of gender-based violence, there is life after exiting a toxic relationship. Most of all, I want to be a role model for my daughters.

“I want to teach women to speak up and stand up for what they believe in. Every hour women gets killed because they could not escape the relationship they were captured in.”

Oosthuizen recently took in a friend whose



Nolene Oosthuizen

partner stabbed her with a sharp object.

“It is horrible being stuck in the situation because you are isolated and alone. Victims

need to know that there is help available,” she says.

Don't get discouraged, never give up on your future

Mthokozisi Nelson Mdubeki (45) did not get discouraged when he had to wait to qualify for the MISA Study Assistance Benefit, because he knew his time will come.

The Sales Executive of Hynduai Richards Bay in KwaZulu-Natal got the benefit this year and can now study towards becoming a Financial Manager.

“I appreciate the assistance from MISA.” He decided to study the National Credit Regulator at the Cocciolino Academy in Johannesburg, and is corresponding with distance learning.

This husband and father of four has been in the motor retail industry for eight years and part of MISA. This is the first time he has claimed any of the MISA benefits.

“Being a Sales Executive has been good as it has helped me accomplish a lot of things. I would like to grow and venture into finance and I appreciate how MISA came through for

me. I enjoy my work, but I would like to grow with MISA making it possible for me.

“I was honestly starting to doubt MISA as I have been applying for the Study Assistance Benefit, but did not get it at first. I decided to try again this year and I was approved. I knew MISA has a lot of Benefits but I was not aware of some.

“I am very pleased that I was assisted with my studies and would encourage employees in the retail motor industry to join MISA and be part of the Union which takes good care of its members”, says Mdubeki.

For more information on MISA's educational benefits, e-mail Training@ms.org.za or call MISA's Training Department directly on 011 476 3920.



Mthokozisi Nelson Mdubeki

Drawing up a Will

Throughout life we take care of our families, we plan from day to day and gather assets to live a better life or to realise a dream. We control the outcome as much as possible. But we all know death is a reality of life.

When we die, we lose control over what happens to our assets and how our loved ones can further benefit from it and realise their dreams. Without a will, our affairs fall under the Intestate Succession Act, and this may result in our wishes not unfolding as we would like. According to the records of the Master of the High Court up to 75% of South Africans die without a will.

There might be many reasons for this, a lack of knowledge of this important process being one of them. Drawing up a will is a freedom we as South Africans can cherish, and we can legally choose how our estate will be executed after our death.

Without a will the law makes provision for extended family members in terms of relationship degrees to inherit, and it usually takes longer to appoint an appropriate executor – who might not be a person of choice. The process is more expensive and can cause frustration and even conflict amongst next of kin.

There are also other limitations such as not being able to set up a trust on behalf of minors and you cannot nominate a guardian for minor children if both parents die at the same time. Finally, without a will, you cannot distribute offshore assets.

Do not underestimate the value of a will for yourself and even your family.

It all sounds like a difficult and tedious process, but if you start on the right footing, partnering with a knowledgeable trustworthy legal representative, the process flows easily.

Remember this is a legal process and to ensure you follow the correct path it is important to make an enlightened choice.

You should choose a reputable organisation that is well-recognised and respected in the industry. It should also be a partner taking you through the process from estate planning, the administration of deceased estates, trusts and curatorships or even handling deceased matters world-wide.

Do not delay and start planning your will today !

Petra Labuschagne, PGL Trustees.



Cancer Survivor studying for a degree thanks to MISA

Breast cancer survivor Linah Nene (48) makes the most of every day.

She is now studying a Bachelor of Commerce in Human Resources Management at Mancosa in Johannesburg.

The mother of three is a Payroll and Human Resources Administrator at Marcopolo South Africa in Germiston.

Nene says MISA's Study Assistance Benefit made it possible for her to achieve the impossible after she could not further her studies when she discovered that she was diagnosed with breast cancer in January 2018.

"Late 2017, I started feeling different, and there was a small lump which was quite disturbing. The following year, I went for a mammogram, and that was when the cancer was discovered.

"The first thing that came to my mind was my three beautiful kids. I thought I was going to die. I come from a family where both my aunts from maternal and paternal side died of cancer. I was shocked and scared, but the support from my family was out of this world."

"They would go with me on every check-up. Everyone at work was supportive and understanding."

"The 1st of August 2019, I learned I was in remission. I was running up and down the passage of the hospital because I was so grateful for what God's grace has done for me. It made me realize that one has got to be positive and believe against all odds."

Breast cancer is one of the most common cancers amongst women of all races in South Africa. The National Cancer Registry (NCR)

estimates that one in every 27 women in the country are at risk of being diagnosed with breast cancer in their lifetime.

According to Nene, women should go for a check-up annually. "Women should know their bodies, and I preach this at work as I am in charge of wellness too," says Nene.

Nene was unaware of the MISA Healthy Women Benefit when she was diagnosed with cancer.

The Union annually rewards 500 eligible

female members with R2 500 each. Claims for this benefit are paid on a first-come-first-serve base.

To qualify, MISA female members must undergo a mammogram or a pap smear from 1 January to 31 December 2023.

This benefit is subject to 26 weeks' consecutive contributions to the Union as at the date of claim.

For more information about this benefit, e-mail claims@ms.org.za.



Linah Nene

Suspended from Duty: With or Without Pay

Constitutional Court Judgement on Pre-Suspension Hearing

The Constitutional Court (CC), however, later overturned the above judgement, in addressing the third factor for consideration, as cited above, finally ruling, in *Long v South African Breweries (Pty) Ltd and Others* [2018] ZACC 7 (the Long judgement) that it is **no longer necessary to hold a pre-suspension hearing**, stating that there is no requirement to first afford an employee an opportunity to make representations prior to the implementation of a precautionary suspension by an employer.

Therefore, an employer need only rely on the first two factors addressed in the Masemola matter, before suspending an employee.

Case Law addressing the issue of Payment during Suspension

The CC in the Long judgement, above, confirmed that a pre-suspension hearing (where an employee was allowed to make representations prior to the suspension) is no longer a requirement. A suspension (prior to a disciplinary hearing) is a precautionary measure and not a disciplinary measure, affording the employer opportunity to conduct an investigation without interference.

Therefore, when suspension is for precautionary reasons, there is no obligation to afford an employee to make representations.

However, the same is not true for punitive suspension, in such a case the employee should be afforded an opportunity to make representations prior to the decision being taken.

In assessing the fairness of suspension, factors to be considered should include, whether a fair reason exists for the suspension, and whether the employee would be prejudiced. Stating, **“Generally where the suspension is on full pay, cognisable prejudice will be ameliorated.”** [own emphasis]

The LC in *Sappi Forests (Pty) Ltd v CCMA and Others* [2009] 3 BLLR 254 (LC) confirmed, **“It is normally unlawful and unfair to suspend an employee without pay pending a disciplinary enquiry.”**

In the LC matter of *American Products Services (Pty) Ltd v CCMA and Others* [2020] ZALCJHB 113, a truck driver, involved in a motor vehicle accident, wherein witnesses confirmed that the driver’s poor eyesight and negligent driving caused the accident, was suspended without pay. The LC confirmed, **“Suspension without pay was both substantively and procedurally unfair.”**

The Labour Appeal Court (LAC) in *Education, North West Provincial Government v Gradwell* (2012) 33 ILJ 2033 (LAC), confirmed, that precautionary suspensions, (as distinguished from punitive suspensions), should be on full

pay, to mitigate prejudice to the employee, that the period of the suspension should be for a limited duration, and that the purpose thereof is to protect the integrity of the investigation of the alleged misconduct.

This notion was embellished by the LC in *Harley v Bacarac Trading 39 (Pty) Ltd* (2009) 30 ILJ 2085 (LC), wherein it was held, that suspension is a breach of contract (by the employer), therefore, in order for a “holding operation” (precautionary) suspension to be lawful, the suspension should be paid to mitigate psychological and financial prejudice to the employee, pending the resolution of a disciplinary hearing.

The LC again in the matter of *City of Tshwane Municipality v South African Local Government Bargaining Council and Others* (Case no: JR 795/18) confirmed this view. In this matter, employees were suspended because they refused to sign a new contract. *(It is questionable if that could be regarded as a fair reason for suspension, but that is not for the purposes of this discussion.)* In any event, the employees were not informed about the duration of their suspension, they were not paid during the period of suspension, and it was found that the employer’s conduct was unfair in relation to the employees’ suspension.

The abovementioned case cited the below judgements, in coming to its finding:

In *HOSPERSA and another v MEC for Health, Gauteng Provincial Government* (2008) 29 ILJ 2769 (LC) the LC confirmed that, an employee has a common law right to be paid her salary, unless the employee fails to render services to the employer, by her own account. Essentially, the principle of “no work, no pay” would then apply. (see *Boyd v Stuttaford* 1910 AD 101 at 104-5)

The above relied on an earlier judgement, *Myers v SA Railways & Harbours* 1924 AD 85 where the court held at 90C: **“If it was due to his employer that he had been unable to perform his work, then he would be entitled to be paid notwithstanding that no service had been rendered by him.”**

Legislation

In the absence of payment, such suspension will amount to an unfair labour practice as envisaged by section 186(2)(b) of the Labour Relations Act 66 of 1995.

Conclusion

If you are suspended from duty prior to a disciplinary hearing, that period of suspension will be paid; otherwise, it will amount to an unfair labour practice.

Remember, MISA is just a phone call or an e-mail away!

Legal/Labour Enquiries - Legal@ms.org.za

Legal Reception - 011 4763920



You never lose. You either win or you learn
- Anonymous

Article by Nichole Turner, Senior Labour Advisor

An employer is entitled to suspend an employee under certain circumstances.

In this article, we address the principles relating to pre-suspension hearings, when a suspension from duty will be with and without pay.

Legal Authors

Grogan Workplace Law (2007) on page 103, confirms that when an employer unilaterally suspends an employee, the suspension should be paid. Unpaid suspensions, will only be fair, if the employee agrees to same, by way of contract, or if a collective agreement makes provision for such a penalty, or the employee agrees to unpaid suspension as an alternative to dismissal.

Law @ Work, Lexis Nexis 4th edition (2018) pages 216 – 217, reiterates, that a suspension should not be used to punish an employee (unless it is imposed as a sanction following a disciplinary hearing), moreover, the employee should be informed of the reason and duration of such suspension. Further to this the duration should be reasonable and with full pay.

Procedural fairness of suspension

The Labour Court (LC) in *POPCRU obo Masemola and Others v Minister of Correctional Services* (2010) 31 ILJ 412 (LC) addressed factors to follow for a procedurally fair suspension, stating:

- First, the employer should have a justifiable reason to believe, prima facie, that the employee has engaged in serious misconduct;
- Secondly, that there is some objectively justifiable reason to deny the employee access to the workplace, either that such employee might influence the integrity of a pending investigation or perhaps place the affected parties in jeopardy; and
- Thirdly, that the employee has been given an opportunity to state a case, before the employer makes a final decision to suspend the employee.

Stop seeing race, culture, beliefs, gender or sex



People in South Africa should condition themselves to stop seeing race, but to see other people as fellow South Africans with different beliefs.

South African's should also stop judging other people, says Amanda Rautenbach, the facilitator of Staff Training who presented MISA members with Diversity and Inclusion Training. The training session was a MISA initiative hosted by the Industry Equality and Diversity Forum (IEDF).

“We live in a rainbow nation, but we are still too scared to talk about race. This new generation is all South Africans, yet we still find it tricky due to our own conditioning and stereotyping of races.”

According to Rautenbach employees in the retail motor industry must work together as a team to be successful and need to tolerate diverse beliefs and cultures. “There are no secrets. If you think you are going to tell a secret to someone, don't get upset when everyone knows. If you don't like people gossiping about you, don't allow them to. Announce your news at a staff meeting or openly to everyone. If you don't want to do this, don't tell anyone. We recognise the emotions of others in the workplace, but we don't entertain them. When you work in an environment where you serve the public, you cannot be upset. Deal with your problems once you are back home. You are paid to be at work.”

According to her the same principal applies to beliefs, gender bias and religion.

A MISA member gave an example of a Hindu family recently buying a truck. The family gave specific instructions that the truck be taken to a Hindu temple for a religious ritual prior to delivery.

“The driver was shocked by the ritual and refused to continue driving the truck, saying

it was against his religion. The manager then instructed someone else to drive the truck,” the member said.

Rautenbach explained that the driver had the right to refuse to continue driving the truck, because it was against his own culture and beliefs.

“Your culture, beliefs, gender or sexual orientation should not influence how you are treated at work. Your age, whether or not you are young or old, does not mean you cannot do your job. The same applies to people with disabilities.”

People must stop assuming others are “OK”,

because it is “stupid things” that can get you into big trouble at the Commission for Conciliation, Mediation and Arbitration (CCMA).

“It is not a joke if the other person is not laughing. Refrain from name calling, making jokes about someone's hair, weight or age.”

It is always good practise to treat other people the way you would want to be treated. “Just treat other people with respect.”

For more information about the IEDF, contact Thandeka Phiri on 011 476 3920.



Amanda Rautenbach

Limited space for MISA's Bikers Rally



MISA will host a Bikers Rally in Clarens in the Free State on 18 and 19 November 2023 to raise awareness for men's mental health and the free support groups available to anyone of the South African Depression and Anxiety Group (SADAG).

Only R600 per person sharing will get you the following:

- Lunch at Clarens Brewery where the two main groups from Bloemfontein and Gauteng will meet;
- A choice of one of the following activities at Clarens Xtreme (Zipline, Rock Climbing or Archery);
- Fully furnished tented accommodation at Bergwoning Campsite;
- A braaipack including side dishes and beer for dinner;
- Breakfast at the Post House Restaurant in Clarens, before departure. The best part of it is that you don't have to be a biker or a MISA member. You have to be passionate about mental health in general, realising how difficult it is for men to #speakup and seek help.

Rudo Schwim, a very popular local artist in Clarens, will keep us entertained at Bergwoning while MISA will host a "Dop & Tjop".

You are allowed to take along your own drinks to Bergwoning. MISA will provide the soft

drinks. A cash bar will also be available on the evening.

Bergwoning Campsite is set among the Maluti Mountains, 12 km outside of Clarens 1 km from the Golden Gate National Park.

The farm offers a variety of activities such as hiking trails, quad biking and many more.

On Sunday 19 November 2023 the early birds can explore the following loops in the Golden Gate (permit costs R150, excluded from the package):

Oribi Loop

The Oribi Loop is a 4.2 km long one-way road. The entrance is also closest to the Glen Reenen Rest Camp and you'll see a lot of wild animals roaming around. Here you'll have access to the Vulture Feeding Project and the Drakensberg View point.

Blesbok Loop

The Blesbok is a 6.7 km one way road with various viewpoints. Just make sure to use the entrance closest to the Glen Reenen Rest Camp, but don't worry the signs are clear. Some of the viewpoints include the Langtoon Dam, Zuluhoek- and the Generaalskop view point.

Drive the famous Lichen Pass

The Lichen Pass, also known as the Golden Gate Pass, is 2041 m above sea level and just

driving this will make a trip to the Golden Gate National Park worth it. It winds through the Park with some spectacular mountain views. The group will enjoy breakfast at the popular Post House Restaurant in Clarens before departing.

Bookings will be handled on a first come, first serve basis. MISA is able to offer this very special package thanks to the help of sponsors who feel just as passionate as the Union about this cause.

For more information or to assist with sponsorship, please contact Sonja.Carstens@ms.org.za.

Book your spot now by sending an e-mail to Braam.Cilliers@ms.org.za.



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For more information contact MISA on (011) 4763920 or e-mail info@ms.org.za

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