

Practical Tips for CCMA Cases

Commission for Conciliation Mediation and Arbitration (CCMA) and its Origin

- The CCMA is a dispute resolution body;
- It was established in terms of the Labour Relations Act, 66 of 1995 (LRA);
- It is an independent body with a mission to promote labour stability, social justice, and job security;
- Importantly, its services are for free;
- The LRA created the CCMA, Labour Court and Labour Appeals Court as specialised dispute resolution institutions;
- The LRA requires that most of the disputes must first be referred for conciliation, which can be at the CCMA or any other statutory bargaining council;
- If the conciliation fails, the LRA prescribes a dispute resolution to be followed, i.e. arbitration at CCMA / Statutory Bargaining Council or the Labour Court;

Functions

- To conciliate disputes in a workplace;
- Arbitrate certain disputes that remain unresolved after conciliation;
- Establish picketing rules;
- Facilitate the establishment of workplace forums and statutory councils;
- Consider applications for accreditations and subsidy for bargaining councils, private agencies, etc.;

Timeframes

- A dispute of dismissal must be referred to the CCMA within 30 days for conciliation (Conciliation/Arbitration)
- A dispute of unfair labour practice must be referred to the CCMA within 90 days.
- If a dispute remains unresolved and a Commissioner has issued a certificate in terms of Section 135(5), it may be referred to arbitration within 90 days;
- If a party wants to review an award to the Labour Court, it must be done within 6 weeks from the date of such an award;
- NB - If you cannot comply with the above time frames, an application for late condonation can be launched;

Representation

Rule 25 regulates that:

- At conciliation, the lawyers are not allowed;
- Lawyers can represent the parties at the hearing on the condition that:

- the parties consent.
- the complexity of a dispute justifies legal representation;
- legal representation is in the public interest;
- Their respective Knowledge of the law

Litigation steps at the CCMA

1. Consultation.
2. Referral to the CCMA;
3. Application for legal representation;
4. Pre-Arbitration minutes;
5. Preparation of the bundle (include pagination);
6. Arbitration;
7. Review (if not happy) (Labour Court);
8. Founding Affidavit;
9. Filing of records;
10. Opposing Affidavit;
11. Answering Affidavit;
12. Pagination / Index;
13. Hearing of the Arguments.

Johannes Mokotedi, Van Velden-Duffey Inc