Rebecca Cameron

Candidate Attorney

About Rebecca

News

Meal allowances: No second bite of the cherry

An employee's constitutional right to strike is not absolute. Section 65 of the Labour Relations Act, No 66 of 1995 (LRA) restricts an employee's right to engage in industrial action if he or she is bound by a collective agreement which prohibits strike action. This statutory restriction on the right to strike was considered in a recent decision of the Labour Court in South African Airways (SOC) Ltd v South African Cabin Crew Association and Others (J949/17) 2017 ZALC (JHB). While the South African Cabin Crew Association (SACCA) had complied with the procedural requirements to ensure that their intended strike action would be protected, SAA successfully interdicted the strike on an application of s65 of the LRA.

Constructive criticism or constructive dismissal?

It is trite that in terms of the Labour Relations Act, No 66 of 1995 (LRA), 'dismissal' includes a scenario where "an employee terminates a contract of employment with or without notice because the employer made continued employment intolerable for the employee." In the circumstances, the termination by the employee will be regarded as a constructive dismissal in terms of s186(1)(e) of the LRA. The onus is on the employee to establish the existence of a dismissal when the employee claims that he/she has been constructivelydismissed.

Constructive dismissal and affairs of the heart

Increasingly, employees are resigning and claiming they did so because the employer made their continued employment intolerable. But what exactly is required for an employee to succeed in a claim for constructive dismissal?

Resurrection from the archive

The Labour Court Practice Manual (Practice Manual), which came into effect on 1 April 2013, provides guidelines on the standards of conduct in the Labour Court and also promotes consistency in practice and procedure. Whilst the Practice Manual does not substitute the Rules of the Labour Court (Rules); it must be read in line with the Rules in order to give clarity to the application of these Rules in the operation of matters before the Labour Court. Amongst various types of matters, the Practice Manual also sets out specific procedures and time periods in respect of review applications, thereby amplifying theRules.

Contact Rebecca

Location

Cape Town

Language

Long-standing practice or contractual term?

It is trite law that the employment contract commences from the moment the parties reach agreement on its essential terms. The parties are free to regulate their respective rights and duties in the contract in any manner they please, subject to the requirements of the law. It is also an accepted principle that a long-standing practice nmay give rise to a tacit term. However, such a practice will not necessarily be contractually binding. The case of Edcon Ltd v Commission for Conciliation, Mediation and Arbitration and others (PR09/15) ZALCPE 25 (9 December 2016) has recently confirmed this principle.

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