

ISSUE

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THE IMPORTANCE OF GENUINE REMORSE IN DISMISSAL CASES

A recent Labour Court ruling has highlighted a critical – and often underestimated – factor in disciplinary matters: the employee’s attitude after the misconduct. The case of *Standard Bank Insurance Brokers (Pty) Ltd v Dlamini & Others*(JR15/24) shows that when trust is broken, saying “sorry” without meaning it simply isn’t enough.

Background: Senior Manager Fails to Follow Protocol

The case involved Ms Dlamini, a senior Wealth Insurance Manager working in a highly regulated industry. She was dismissed for failing to comply with important renewal protocols under the FAIS Act – a mistake that posed serious compliance risks for her employer.

Even though the company’s system gave her advance warnings about the issue, she failed to act. Her explanation? She couldn’t remember the alerts and assumed the system would sort it out.

CCMA Ruling: Guilt Accepted, But Dismissal Deemed Too Harsh

The CCMA arbitrator accepted that Dlamini had acted negligently, but ruled that dismissal was too severe. The reasons included:

- The misconduct was classified as “negligence,” not “gross negligence”
 - Dlamini had long service
 - She allegedly showed remorse during the disciplinary process
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Labour Court Steps In: Words Are Not Enough

The Labour Court disagreed and set aside the CCMA’s award.

It found that:

- The arbitrator failed to consider the serious risk Dlamini’s actions posed

- Dlamini’s “remorse” during arbitration was not sincere – she denied responsibility, blamed the system, and claimed her actions were normal practice
 - Real remorse means taking responsibility, showing insight, and being willing to change – none of which were evident
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Why Remorse Matters

In employment disputes, remorse is not just a formality. It reflects whether the employee understands their mistake and whether the relationship of trust can be restored.

As the Court put it:

“Without the requisite remorse, it is not possible to restore the relationship of trust that forms the foundation of the employment relationship.”

Key Lessons for Employers and Employees

- **Employees:** Denial and blame-shifting after proven misconduct will severely damage your case. Sincere accountability is often what tips the scales.
 - **Employers:** Don’t overlook the importance of attitude during the disciplinary and arbitration process. A lack of remorse can justify dismissal – even for long-serving employees.
 - **Arbitrators:** Must carefully consider the employee’s post-misconduct conduct. Overlooking this could lead to a court overturning the award.
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Outcome

The Labour Court found the dismissal substantively fair and substituted the CCMA’s award with its own ruling in favour of the employer.

Final Thought:

In serious cases, "Sorry" without accountability is just a word. And in the world of labour law, that can be the difference between reinstatement and a confirmed dismissal.

Regards

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