



NTEU at NMMU

The Common Law Contract of Employment : Part 5.

In the first 4 parts of looking at the Common Law Contract of Employment, we have concentrated on the duties of employees. We now move to the employer. The employer 's duties in terms of the contract of employment are:

- To receive the employee into service
- To remunerate the employee
- To provide safe working conditions
- Abide by employment laws
- Must not change conditions of service or the contract of employment unilaterally

Receiving the employee into service means that the employer must permit the employee access to the workplace to perform the work (s)he was employed for. While one would expect all employers to receive their employees into service, there are times when that does not happen.

Examples of employers not receiving employees into service include:

Lockout

Many employers apply for a court interdict, during strikes, to lockout employees so that they cannot access the work premises. This is usually a precautionary step to safeguard the property of the employer. The maxim of no work no pay applies.

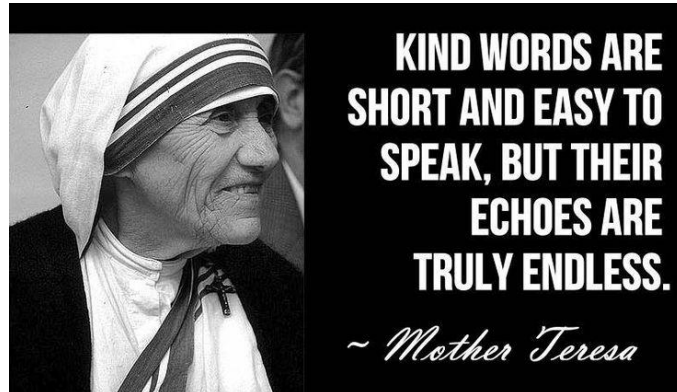
Employers sometimes use the lockout strategically in workplaces where a union has given notice to strike but they know that there are employees who do not wish to engage in a strike (as happens at most universities). By gaining a court interdict to lockout all members of the trade union that wishes to strike, it places those members of the trade union who do not wish to strike in the invidious position of having to resign from the union in order not to be locked out. That is a strategy of divide and rule as those who do not wish to strike are forced by the lockout to break ties with the union which angers those who wish to strike. The union, not wanting to lose members, has to decide which way to go. Often this tactic results in the union settling the dispute on management's terms so as not to lose members. This tactic works well at a university like the NMMU which explains why strike action is employed as a last resort by NTEU.

Suspension

Employers usually suspend, on full pay, an employee who has committed a serious offence before the disciplinary hearing takes place. During this time the employer does not receive the employee into service. The reason for the suspension is to prevent the accused employee from maybe tampering with evidence or interfering with witnesses.

Suspension without pay is against the law. However, certain unscrupulous employers break the law and use as a sanction, suspension without pay. The excuse is that as an alternative to dismissal, the employee is suspended for a period without pay. The question that arises is, if the offence was so serious as to warrant dismissal (the termination of the employment relationship), why then is the employee retained but is punished by losing pay? There is no sound rationale behind this. We trust that the NMMU will never practice such dubious acts. Not only is suspending an employee without pay against South Africa's labour laws, it is also in breach of the Common Law Contract of Employment which requires employers to abide by employment laws. We are sure that none of our universities would make themselves guilty of breaking the law by using suspension without pay as a sanction. Shame on those that do.

CREDIT: PROF NORMAN D KEMP – FORMER NTEU PRESIDENT



LEARN HOW TO DEAL WITH CRITICISM IN A HEALTHY WAY

One of the most common fears is the fear of criticism. It can hold people back from doing what they want in life. Because having negativity flowing out of someone's mouth or email and it being about you can hurt. And being rejected can sting quite a bit.

But if you want to take action on what you deep down want then criticism is pretty much unavoidable. So the key is learning to handle it in a healthier way. By doing so your fear of it will lessen and it will hurt less if you do get criticized.

Try the following 4 steps:

- **Step 1:** Don't reply right away. When you are angry, upset or riled up then is time to calm down a bit before you reply. Take at least a couple of deep breaths or a little time to process the message before you respond.
- **Step 2:** Really listen to the criticism. Try to remain open and level-headed and figure out how this message can help you. Ask yourself: Is there one thing I can learn from this criticism? Is there something here that I may not want to hear but could help me?
- **Step 3:** Remember that the criticism isn't always about you. Some criticism is helpful. Some is simply attacks or someone lashing out because they are having bad day, year or job. To lessen the sting of such criticism – often really angry or overly critical in an unconstructive way – try to be understanding. Perhaps this person might not be feeling so good at the moment.
- **Step 4:** Reply or let go. No matter the content of for example an email, try to keep your reply level-headed and kind. You may add a question or two to get more specific feedback that is helpful. And if they don't reply or you have simply gotten a nasty attack then it is time to delete it and to let that situation go.

Sometimes something can still get under your skin and hurt you. Even if you use the steps above.

Two things that have helped me with that challenge are:

- **Let it out.** Just letting that issue out into the light talking it over with someone close can be very helpful to see it for what it actually is. And to find a healthier perspective on the situation.
- **Improve your self-esteem.** You may find that over the years with a stronger self-esteem things may not drag you down less and will not ruin your day as much. Negativity from others will bounce off you much more often.

SOURCE: <http://www.positivityblog.com/index.php/2014/04/09/how-to-stay-positive/>

REMINDER

REMAINING MEDICAL AID 2016 BENEFIT UPDATE SESSIONS

| NORTH CAMPUS | (SENATE HALL) |
|----------------------------|---------------------|
| 22 October 2015 (Thursday) | : 09H00 BESTMED |
| 22 October 2015 (Thursday) | : 11H00 BONITAS |
| SOUTH CAMPUS | (AUDITORIUM) |
| 23 October 2015 (Friday) | : 09H00 BESTMED |
| 23 October 2015 (Friday) | : 11H00 BONITAS |
| GEORGE | (CONFERENCE CENTRE) |
| 26 October 2015 (Monday) | : 10H00 BESTMED |
| 26 October 2015 (Monday) | : 11h30 BONITAS |