

Guidelines on suspension

The matter of payment for suspension or non-payment, remains a problematic issue.

In most instances this is purely academic, since the Disciplinary Hearing normally is completed before the next pay cycle and therefore the Chairperson at the Disciplinary Hearing can make a ruling on the payment or non-payment of the suspension.

Labco would advise that Suspension Notices change from **with / without payment** with **to be decided at the Disciplinary Hearing**.

The Employer **must** then address the issue of the payment or non-payment of suspension at the Disciplinary Hearing and ask the Chairperson to make a ruling.

Guidelines On Payment Or Non-Payment

Non-payment:

An Employee that makes it impossible or intolerable for that Employee to remain at work, pending the inquiry, would be at risk of not being paid for the period of suspension due to the actions or omissions by the Employee.

Instances of non-payment suspensions would be:

- Serious assault;
- Threatening assault;
- Fraud and fraudulent behaviour.

In these circumstances the Employer cannot, for physical or commercial reasons, allow the Employee back onto site, without risking further harm to either the Employer or its Employees; this would be grave misconduct in line with the above categories. The Employee by his/her action or omissions therefore make it impossible for the Employee to be at work and the Employer needs to suspend them without pay.

Payment:

Most other instances where the Employee is suspended but where the reasons for the suspension is not as grave as above and where the Employee might only need more time to consult with witnesses to finalise investigations, etc. would be reasons where the Employer would pay the Employee on suspension to ensure that the Employee is not at work, pending the Disciplinary Hearing, it is most probable that most categories of suspensions would fall into the latter part and therefore most suspensions would end up being paid suspensions.

Conclusion:

Remember to ask the Chairperson of the inquiry to make a ruling on the suspension. The dispute about the suspension will then form part of any future CCMA dispute and we will seek guidance from the CCMA on each specific matter.



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