

# JULY 2024 NEWSLETTER

[WWW.LEOLAW.CO.ZA](http://WWW.LEOLAW.CO.ZA)



**LABCO**  
EMPLOYERS ORGANISATION



## Top News

Unpacking the Basic  
Conditions of Employment Act  
("BCEA", Act 75 of 1997)

Abscondment - Unauthorized  
and uncommunicated  
absence from work - what is  
the correct procedure to follow  
by the EMPLOYER

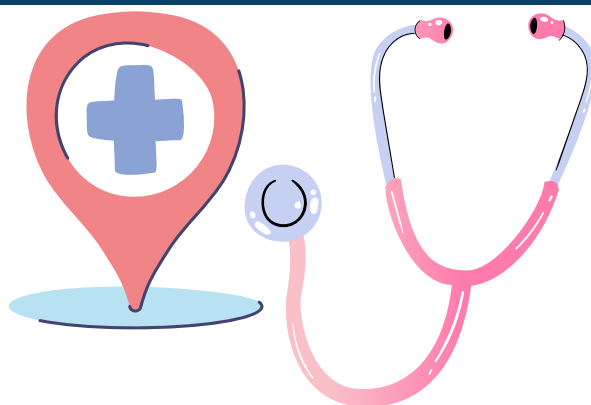
## Unpacking the BCEA

The Basic Conditions of Employment Act ensures fair labor practices in South Africa, setting standards for work hours, leave, and wages. It promotes healthy workplace environments, protects employees' rights, and helps businesses maintain compliance, fostering a stable and productive workforce essential for economic growth.

Each month we will unpack a section of the BCEA starting with **leave types**. The BCEA mandates several types of leave, including annual leave, sick leave, maternity leave, and family responsibility leave.

**Sick Leave Summary:** The BCEA prescribes that during each cycle of THIRTY-SIX months' service (3-year cycle), the employee is entitled to paid sick leave equal to the number of days he would normally work, during a period of SIX weeks, equal to 30 days.

During the FIRST SIX months of employment, **however**, sick leave accumulates at ONE day's paid sick leave for every TWENTY-SIX days actually worked, for the employer.



01/03

Visit our website at  
[www.leolaw.co.za](http://www.leolaw.co.za)



## ABSCONDMENT - UNAUTHORISED AND UNCOMMUNICATED ABSENCE FROM WORK

How should employers deal with employees that are believed to have absconded?

### Step 1

The onus will be on the employer to enquire about the whereabouts of the employee and to instruct the employee to return to work. This is normally done as follows.

1. Stop paying the employee. The employer does not have to pay the employee if the employee failed to report for duty without permission or justification. Employees are quick to make contact with the payroll office when they are not paid on the normal payday.
2. Call the employee on his cell phone. It is surprising that many employers fail to do this and skip straight to sending a letter by registered mail. Note the date and time of the call and when messages were left.
3. Enquire with friends at work and family members. Note their comments.
4. Ensure that an obligation is placed on employees to inform the company of any changes to their residential and/or postal addresses. Employees must understand the consequences of not updating such information.
5. Send a letter to the employee (see example below) by registered mail or deliver it to the last known address of the employee.

*Dear Employee*

*You have been absent from work without permission since 5 January 2022 and failed to communicate your absence to the company. You are instructed to return to work immediately. Failure to do so will lead us to believe that you have no intention to return to work and may lead to your dismissal.*

*If you do not return to work on the xxx of January 2022 a disciplinary hearing will be held which may lead to your dismissal.*

*Signed*

*The Employer*

Deliver the letter to the residential address of the employee or send it by registered mail. Make sure that proof of delivery is obtained. WhatsApp communication may also be used as long as there is proof of transmission, delivery and confirmation that the message was seen.

**Tel: 010 493 4655**

**admin@leolaw.co.za**

**[www.leolaw.co.za](http://www.leolaw.co.za)**

**02/03**

**Sources:**

**<https://labourguide.co.za/misconduct/abscondment-unauthorised-and-uncommunicated-absence-from-work>**



## ABSCONDMENT - UNAUTHORISED AND UNCOMMUNICATED ABSENCE FROM WORK

The question now is what to do if the employee fails to report for duty on the stipulated dated?

### Step 2

The employer will have to follow-up the first letter with a notification to attend a disciplinary enquiry. The employee will be charged with abscondment with an alternative charge of unauthorised absence from work for an extended period.

An important point to remember is to remind the employee of the consequences of non-attendance. If the employee does not attend the hearing it will commence in absentia. If the employee appears at the enquiry, he will have to justify his absence from work.

### Step 3

If the employee is dismissed in absentia, a third letter will have to be served on the employee confirming the dismissal and reminding the employee of the right to refer the matter to the CCMA within 30 days from the date of dismissal.

Article content from, read the full article here:

<https://labourguide.co.za/misconduct/abscondment-unauthorised-and-uncommunicated-absence-from-work>