

1.6. DESERTION

1.6.1. Absenteeism versus Desertion

It is very important to distinguish between absenteeism without authorisation or permission and desertion. Absenteeism is when an employee does not show up for work at the required time and has failed to notify the employer of his reason for absence and his expected date of return. This absence tends to be short in duration. Desertion or absconding entails the employee's intention to no longer return to work.

1.6.2. The Rule

In general the practice has evolved that if an employee has been absent without authorisation for an extended period and without communication of any sort, the employer assumes that the employee has deserted and no longer wishes to be bound by the employment contract. This period of unauthorised absence would normally exceed five or six working days. Employers are advised to formulate a clear rule in this regard and to communicate this rule to employees. One way of doing this is to insert such a clause in every new employee's agreement of service.

1.6.3. The process to be followed when dismissing a deserter

The following guidelines should be followed when dismissing a deserter:

- ❖ Make an attempt to contact the employee or his/her next of kin by phone or telegram in order to determine the reason for the absence.
- ❖ If the employee is contacted and offers a reasonable explanation (e.g. accident or extreme illness) make whatever arrangement might be appropriate in the circumstances.
- ❖ If the employee cannot be contacted, send a letter to the employee at the last available address, indicating the intention to terminate employment if the employee does not contact the employer within a specified period.
- ❖ If it is impossible to contact the employee, or is contacted but offers no reasonable explanation for the absence, wait for the period of at least five days to pass, whereupon a meeting may be called to assess the employee's continued employment.
- ❖ At the meeting, which is to be attended by at least the employee's supervisor and a person who is authorised to decide on the employee's continued employment, consideration should be given to certain factors which should include the following:
 - attempts made to contact the employee;
 - all relevant information obtained regarding the employee;
 - whether the employee is or should be aware of the rule on extended absenteeism
- ❖ If it is concluded that the employee has probably deserted, the employee's employment may be terminated with effect from his/her last working day.
- ❖ A letter should be forwarded to the employee's most likely contact address to advise that his/her services have been terminated due to desertion. The employee should also be informed of where any moneys due to him/her, may be collected.

1.6.4. The process to be followed when the deserter returns

An interview should be conducted with the employee to state his/her case. It is proposed that the following procedure be followed:

- ❖ Ensure that the same persons who were present during the meeting when the employee was dismissed, also be present during the interview.
- ❖ Allow the employee a reasonable opportunity to have a representative present during the interview (if this is requested).
- ❖ Explain to the employee the reason for the dismissal and confirm that the employee understands.
- ❖ Give the employee an opportunity to explain the reason for his/her absence, as well as the reason why he/she did not contact you as employer. The employee should be given a reasonable opportunity to provide proof in this regard.
- ❖ Explore the reasons given for the employee's absence and give consideration to at least the following points:
 - attempts made by you as employer to contact the employee;
 - all information obtained regarding the employee at the time the decision to dismiss was made, compared to the information that has since become available;
 - whether the employee is or should be aware of the rule on extended absenteeism (if applicable);
 - attempts made by the employee to contact you as employer;
 - duration of the employee's absence;
 - the employee's length of service;
 - the employee's disciplinary record, particularly with regard to absenteeism; and
 - whether the employee's vacancy has been filled.
- ❖ Depending on the above mentioned factors, it may be decided that the employee be reinstated or re-engaged.
- ❖ Should reinstatement or re-engagement not be justified in the circumstances, the facts and the reasoning behind the confirmation of his/her prior dismissal should be conveyed to the employee.