



BUILDING INDUSTRY BARGAINING COUNCIL CAPE OF GOODHOPE

APPLICATION FOR CONDONATION

- 1.1 If a dispute is referred to the Building Industry Bargaining Council for conciliation outside the time limits prescribed by the Labour Relations Act, 1995 (Act No 66 of 1995), the referring party must make an application for condonation.
- 1.2 The application must be attached to the referral and served together with it on the other parties to the dispute.
- 1.3 The application for condonation must be on an affidavit. The affidavit must explain the reason for the failure to refer the dispute on time. That explanation must be sufficiently full to enable the commissioner to understand how the failure to refer the application in time came about and to assess the applicant's conduct and motives. The affidavit must deal with each of the considerations set out in paragraph 1.7 below.
- 1.4 If the application for condonation arises from the dismissal of a referral on grounds of the referring party having failed to attend a scheduled conciliation meeting, the reasons for the failure must be given.
- 1.5 Upon receipt of an application for condonation, the other party to the dispute may, within (14) fourteen calendar days of service of the application, answer on affidavit, the application. The answer must be served on the Building Industry Bargaining Council and the applicant.
- 1.6 The applicant may, within seven (7) calendar days of service of the answering affidavit, reply to the answer. The reply must be served on the Building Industry Bargaining Council and the other parties to the dispute.
- 1.7 The commissioner must consider the application for condonation and any representations made by the other parties to the dispute. Condonation must be granted if there are good grounds determining whether or not to grant condonation, the following reasons-:
 - (a) The degree of lateness. If the application is only a few days late, that fact should weigh in favour of granting condonation. If the referral is very late, that should weigh against granting condonation.
 - (b) The degree of fault. If the reason for the late referral was due to circumstances beyond the control of the applicant, that factor should weigh in favour of condonation.
 - (c) The reasonableness of the explanation. If the explanation is improbable, this should weigh against granting condonation.
 - (d) The prejudice to the other parties to the dispute.
 - (e) The prospects of success.

P.T.O



APPLICATION FOR CONDONATION IN RESPECT OF UNFAIR DISMISSAL DISPUTE

Case Number:.....

.....
(Applicant/Employee)

and

.....
(Respondent/Employer)

AFFIDAVIT

I, the undersigned,.....
(full name of Applicant/Respondent)

do hereby make oath and say:

1. Background

- 1.1 Applicant was dismissed on
- 1.2 Respondent refused to reinstate applicant on
- 1.3 The dispute arose on.....
after all attempts to negotiate or follow other internal procedures at the respondent failed (appeal).

2. Degree of Lateness

- 2.1 The referral is days late.
- 2.2 Applicant did the following to pursue his/her rights after his/her dismissal:
 - 2.2.1 Applicant went to his/her union / Department of Labour / Community Advice Centre / Legal Advice Centre
(delete whichever is not applicable) on
 - 2.2.2 Applicant telephoned
on
 - 2.2.3 Applicant signed the referral form on

3. Reasons for Lateness

The reason/s that applicant referred the matter late is

.....

.....

.....

.....

4. Prospects of Success

Applicant believes that he/she has good cause because (explain with good reasons why dismissal is unfair)

.....
.....
.....
.....

5. Prejudice

As the applicant (employee), if condonation is not granted, I will be prejudiced because

.....
.....
.....
.....

6. General

Any other relevant information

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.....
.....
.....

7. The respondent must, within 14 days of receipt of this affidavit from the applicant, file an affidavit opposing an application for condonation by the applicant.

8. The respondent must forward a copy of the affidavit to the other party, as well as to the Bargaining Council, within the stipulated 14 days. Proof must be attached to show that the affidavit has been forwarded to the other party. This would be in the form of either a registered slip, fax transmission slip or an affidavit of hand delivery.

.....
Applicant

Signed before me on at
by the deponent who acknowledges that he/she knows and understands the contents of the affidavit, has no objection to taking the oath/affirmation and considers it binding upon his/her conscience.

Commissioner of Oaths

Name

Address

.....

.....

Capacity

PROOF OF SERVICE

If the Application for Condonation is delivered by hand, complete the following:

Applicant (Employee):

.....

Respondent (Employer):

.....

...

Application for Condonation was received by:(print name)

..... (signature)

On (date)

If delivered by hand and written acknowledgement of receipt was not obtained, leave a copy with the employer and complete the Affidavit below, ensure that it is signed in the presence of a Commissioner of Oaths.

AFFIDAVIT

I,the undersigned, an adult person

ID No.do hereby declare under oath that:

I delivered by hand a copy of the Application for Condonation to

..... (name of employer)

At (address)

On..... (date of delivery), and I was unable to obtain written acknowledgement of receipt therefore.

Signature of applicant (employee):

Signed before me on this day of.....20.....

at

Commissioner of Oaths: (Name).....(Signature)

Capacity: