

IN THE COMMISSION FOR CONCILIATION, MEDIATION AND ARBITRATION

Case Number

IN THE MATTER BETWEEN

(Applicant for rescission's name to be put here)

and

(Respondent's name to be put here i.e. other party)

APPLICATION FOR RESCISSION OF RULING/ARBITRATION AWARD

BE PLEASED TO TAKE NOTICE THAT application will be made to the National Bargaining Council for the Road Freight and Logistics Industry (hereafter referred to as the NBCRFLI) on a date place and time to be determined by the Council for an order in the following terms:

- 1) Rescinding the ruling/arbitration award rendered by Commissioner _____ on _____ date in the aforementioned case number;
- 2) No order as to costs /alternately costs in the cause;
- 3) Alternate relief.

PLEASE TAKE NOTICE FURTHER that the applicant will accept service of all documents in this application at the following address:

TAKE NOTICE FURTHER that should you intend opposing this application you must deliver an answering affidavit within five (5) days of this affidavit having been served failing which the matter will be heard in your absence.

AND TAKE NOTICE FURTHER that the affidavit of _____
_____ (insert name of person making affidavit here i.e. deponent) annexed hereto marked A will be used in support of this application.

DATED AT _____ **ON THIS** _____ **DAY OF** _____

APPLICANT

Address:.....
.....
.....
.....

IN THE COMMISSION FOR CONCILIATION, MEDIATION AND ARBITRATION

Case Number

IN THE MATTER BETWEEN

(Insert applicant's name here)

APPLICANT

And

(Insert respondent's name here)

RESPONDENT

AFFIDAVIT IN SUPPORT OF APPLICATION FOR RESCISSION

I, the undersigned,

(Name in full of person making the affidavit)

do hereby make oath and state:

Parties

1. I am the applicant in this matter. I am duly authorised to make this affidavit because _____

(need to explain the person making the affidavit's relationship to the case ie dismissed employee; Trade Union Official; manager at the employer; human resources officer etc).

2. I will accept service of any documents in relation to this matter at the following address or fax number (delete which is not applicable)

- _____
- _____
3. The respondent is _____
(Need to explain who the other party is in relation to the case i.e. former employee claiming unfair dismissal from former employer; employer against whom employee is claiming unfair dismissal; describe also type of employer i.e. company close corporation or individual etc).

The respondent's address is _____

Background and facts on which the applicant relies

4. (This section should chronologically deal with the facts, which would persuade or dissuade a commissioner in granting the application).

- a) The ruling made at conciliation/arbitration award came to my attention on _____. I immediately did the following

- b) I submit that I was not in wilful default of the CCMA because: _____

(e.g. I did not know of the date of the hearing because I had not received the notice/my address has changed and I have advised the CCMA of this/ the fax number the notice was sent to was incorrect. Annex any relevant documents. Must give details)

- c) I believe that the Commissioner should rescind the ruling/ award because I have a good prospect of succeeding in my claim against the respondent because (must set out in as much detail as possible why your case will succeed. It is not sufficient to just say because I was unfairly dismissed. You must indicate why? Was it procedurally and or substantively unfair and what part of it was unfair?)

- d) As a result of the foregoing, I respectfully submit that the Commissioner issued the ruling/award erroneously in my absence, and I am therefore entitled to rescission of that ruling/award (see section 144 for other grounds for rescission, if necessary) as I have shown good cause for this in this application.

e) General

(The issues raised here are not meant to be exhaustive. Please add any information that you think the commissioner may wish to consider in granting the application)

5. **Note:** The respondent must, within 5 (five) days of receipt of this affidavit from the applicant, file an affidavit opposing an application for rescission by the applicant. The applicant has 3 (three) days to file a replying affidavit.
6. The respondent must forward a copy of the affidavit to the other party, as well as to the CCMA, within the stipulated five 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 mail slip, fax transmission report or an affidavit of hand delivery or copy of email sent.
7. By completing this application form, I/we hereby grant my voluntary consent that my/our personal information may be processed, collected, used and disclosed in compliance with the Protection of Personal Information Act, 4 of 2013. I/we furthermore agree that by completing this application form, my/our personal information may be used for the lawful and reasonable purposes in as far as the CCMA (responsible party) must use my/our information in the performance of its public legal duty. I/we understand that my/our personal information may be disclosed to a third party in as far as the CCMA must fulfil its public legal duty. I/we furthermore understand that there are instances in terms of abovementioned Act where my express consent is not necessary to permit the processing of personal information, which may be related to litigation or when the information is publicly available. Further details are available on the CCMA website.

In terms of this application, I pray that the application be granted as prayed in terms of the Notice of Motion to which this affidavit is attached.

DEPONENT

Sworn to before me at _____ on this the _____ day of _____, the deponent having acknowledged that she knows and understands the contents of this affidavit, that he/she has no objection to taking the prescribed oath and that the oath is binding on his /her conscience.

COMMISSIONER OF OATHS

IN THE COMMISSION FOR CONCILIATION MEDIATION AND ARBITRATION

Case Number

IN THE MATTER BETWEEN

(Insert applicant's name here)

APPLICANT

And

(Insert respondent's name here)

RESPONDENT

APPLICATION FOR CONDONATION FOR LATE FILING OF RESCISSION APPLICATION

(This application must accompany the application for rescission)

1. The award/ruling came to my attention on:

.....
.....

2. Degree of lateness:

.....

3. The reasons for lateness:

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

4. The Applicant's prospects of success:

.....
.....

5. Any prejudice to the other party:

.....
6. Any other relevant factor:

.....
.....
7. **Note:** The respondent must, within five (5) days of receipt of this affidavit from the applicant, file an affidavit opposing an application for condonation by the applicant. The applicant has three (3) days to file a replying affidavit.

8. The respondent must serve a copy of the affidavit to the other party, and file a copy with the CCMA, within the stipulated five (5) days. Proof must be attached to show that the affidavit has been forwarded to the other party. This would be in form of either a registered slip, fax transmission or an affidavit of hand delivery or copy of the sent e-mail.

9. By completing this application form, I/we hereby grant my voluntary consent that my/our personal information may be processed, collected, used and disclosed in compliance with the Protection of Personal Information Act, 4 of 2013. I/we furthermore agree that by completing this application form, my/our personal information may be used for the lawful and reasonable purposes in as far as the CCMA (responsible party) must use my/our information in the performance of its public legal duty. I/we understand that my/our personal information may be disclosed to a third party in as far as the CCMA must fulfil its public legal duty. I/we furthermore understand that there are instances in terms of abovementioned Act where my express consent is not necessary to permit the processing of personal information, which may be related to litigation or when the information is publicly available. Further details are available on the CCMA website.

DEPONENT

Sworn to before me at.....on this.....day of....., the deponent having acknowledged that she knows and understands the contents of this affidavit, that he/she has no objection to taking the prescribed oath and that the oath is binding on his /her conscience.

COMMISSIONER OF OATHS