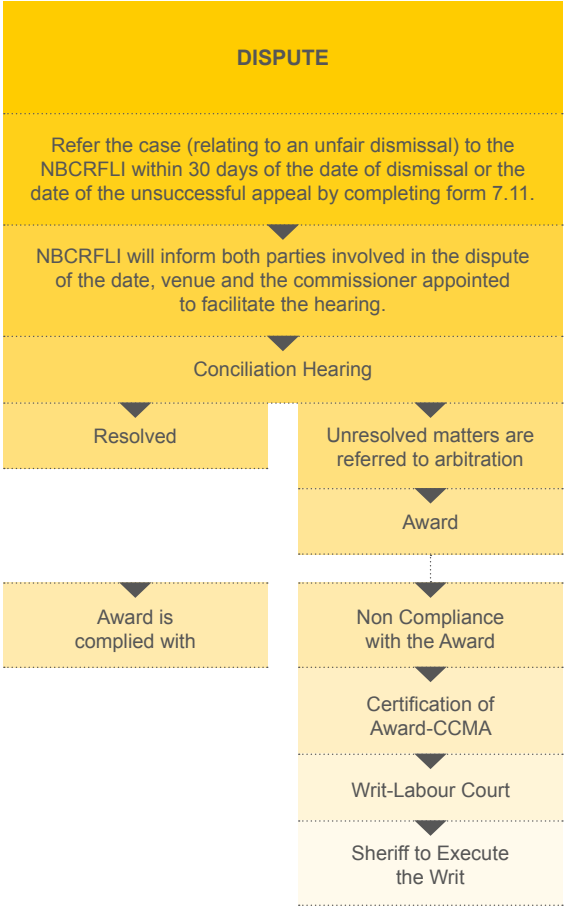




Dispute Resolution Process

The diagram below shows the dispute resolution process for dispute of right i.e. dismissal and unfair labour practice disputes. If an employer has no appeal process, the employee may refer a dispute once he/she has been informed of the outcome.



<b>Polokwane</b> Suite 106, Forum Three 23B Thabo Mbeki Street Polokwane 0699	PO Box 3602 Polokwane 0700	T 015 291 1533 F 015 291 2531
<b>Port Elizabeth</b> 1st Floor Fiveways Centre 62/64 Cape Road Port Elizabeth 6001	PO Box 20119 Humewood 6013	T 041 374 1786 /1859 F 041 374 1748
<b>Rustenburg</b> 1st Floor, Room 103 Biblio Plaza Building Cnr Nelson Mandela & President Mbeki Roads Rustenburg 0299	PO Box 5010 Rustenburg 0300	T 014 597 1320 F 014 597 1547
<b>George</b> Ground Floor Liberty Building 98 Meade Street George 6530	PO Box 9753 George 6530	T 044 874 3098 F 044 874 4839
<b>Clanwilliam</b> 1st Floor, Spar Complex 6 Main Road Clanwilliam 8135	PO Box 205 Clanwilliam 8135	T 027 482 1620 F 027 482 1920
<b>Newcastle</b> 4th Floor, Room 402 Old Mutual Building Cnr Scott & Voortrekker Streets Newcastle 2940	PO Box 2604 Newcastle 2940	T 034 315 1207 F 034 312 9470
<b>Pietermaritzburg</b> Shop 12A Polly Shortts Centre 1 Claveshay Road Cleland Pietermaritzburg 3201	PO Box 3653 Pietermaritzburg 3200	T 033 396 5316 F 033 396 3948
<b>Richards Bay</b> 2nd Floor, Office 14 7 Trinidad Parkade Lakeview Terrace Richards Bay 3900	PO Box 61 Richards Bay 3900	T 035 789 3847 F 035 789 3849
<b>Witbank</b> 208(A) Parkmed Building 64 Mandela Street Witbank 1034	PO Box 1731 Witbank 1035	T 013 656 1503 F 013 656 1509



**Registered Office** 31 De Korte Street,  
Braamfontein, Johannesburg, 2017  
**Private Bag** X69, Braamfontein, 2017  
**Tel** 011 703 7000 **Fax** 011 403 1555/1726  
**Website** [www.nbcrlfi.org.za](http://www.nbcrlfi.org.za)



Contact Details

<b>REGIONAL OFFICES</b>		
<b>Johannesburg</b> 29 & 31 de Korte Street Braamfontein 2017	Private Bag X69 Braamfontein 2017	T 011 703 7000 F 011 403 1555 /1726
<b>Cape Town</b> Absa Building 141 Voortrekker Road Cnr Voortrekker Road & Van Eysen Street Cape Town 7499	PO Box 21067 Parow 7499	T 021 930 7720 F 021 930 6032
<b>Durban</b> 5th Floor Old Mutual Building 300 Smith Street Durban 4001	Private Bag X54378 Durban 4000	T 031 307 6070 F 031 307 6071
<b>BRANCH OFFICES</b>		
<b>Pretoria</b> 401 Provisus Building 523 Church Street Arcadia Pretoria 0083	PO Box 55625 Arcadia 0007	T 012 440 8454 F 086 766 3716
<b>Bloemfontein</b> 2nd Floor, Room 208 2 President Brand Street Bloemfontein 9301	PO Box 4485 Bloemfontein 9300	T 051 448 9422 F 051 448 9480
<b>East London</b> Suite 5, 1st Floor Norvia House 34 Western Avenue East London 5247	PO Box 7075 East London 5201	T 043 726 8525 043 726 8527 F 043 726 8531
<b>Kimberley</b> M Floor, MBA Building 20 Currey Street Kimberley 8301	PO Box 3000 Kimberley 8300	T 053 831 6352 F 053 832 1081
<b>Klerksdorp</b> Room 207, 2nd Floor Jade Square Corner Margaretha Prinsloo & Oliver Tambo Avenue Klerksdorp 2571	PO Box 10053 Klerksdorp 2570	T 018 462 8311 F 018 462 8909
<b>Nelspruit</b> Beacon Corner Building 2 Rothery Street Cnr Rothery and Parkin Str Nelspruit 1200	PO Box 1561 Nelspruit 1200	T 013 752 7420 F 013 753 2386

What to do if the Employer is non-compliant with the Main Collective Agreement

Non-compliance disputes are handled by Designated Agents in certain NBCRFLI regional offices.

What is a dispute?

A dispute is any matter over which employer and employee members legally challenge each other, such as unfair dismissals or unfair labour practices or a dispute about the application of the provisions of Council's Collective Agreements.

It is important to note that the Council checks the following things before a unfair dismissal or unfair labour practice dispute is set down:

- Is the correct citation of the party (legal name of the company, legal names of individuals) provided?
- Are the terms of reference correctly cited?
- Did the applicant sign the form?
- Have the correct timeframes been adhered to?

If not, condonation applies. (If the applicant failed to comply with the timeframes provided for in the Act he/she may apply for condonation for the late referral)

How to refer a dispute to the NBCRFLI

1. Complete the referral form (7.11). The form is available from any **NBCRFLI** office and on the **NBCRFLI** website.
2. Send a copy of the referral form to your employer by registered mail, serve the form in person by handing a copy to the employer or fax it to the correct fax number of your employer.
3. Send the original form to the relevant **NBCRFLI** office with proof that the form was sent or given to your employer. The form can be faxed, posted or hand delivered to the **NBCRFLI**.

Acceptable proof that your employer received a copy of the referral form includes:

- a signature of receipt
- a fax receipt slip, or
- a registered letter slip

4. At the **NBCRFLI** offices, the case management officer will give you a case number and inform you in due course of the date and time of the hearing.

5. You will also get an SMS two days before the date of the hearing as a reminder.

Who may represent an Employee or Employer at the Council

An employee may appear in person at any proceedings before the Council or be represented by a member, official or office bearer of a registered trade union that the employee was a member of at the time the dispute arose.

An employer may be represented by a director, trustee or partner in a partnership of that employer. Legal representation is not automatically allowed and may be subject to the commissioner's discretion.

Time periods in which to refer a dispute

**Unfair dismissal dispute:** Must be referred within 30 days of the date of dismissal. (If an employee applied for an appeal, the date of dismissal is the day the employee was notified of the outcome of the appeal hearing.)

**Unfair labour practice dispute:** Must be referred within 90 days of the date of the act or omission which resulted in the unfair labour practice or, if it is a later date, within 90 days of the date on which the employee became aware of the act or occurrence.

Apply for condonation if the referral is late

If more than 30 days have passed since the dismissal took place without referring the matter for conciliation, you will have to apply for condonation, which is like an extension of the deadline. Condonation forms are also obtainable at **NBCRFLI** offices.

**Referral to arbitration:** An application for arbitration must be submitted within 90 days after the conciliation certificate had been issued.

Resolving disputes

As an employee in the road freight and logistics industry, you have a right to ensure that your dispute with your employer is heard and resolved expeditiously.

The **NBCRFLI** is accredited by the Commission for Conciliation Mediation and Arbitration to provide dispute resolution functions to the industry.

The services the **NBCRFLI** provides are similar to the services provided by the Commission for Conciliation Mediation and Arbitration (CCMA), such as conducting conciliations and arbitrations for employees in the road freight and logistics industries.

Who can access Dispute Resolution Services?

All employees who fall under the scope of the **NBCRFLI** can approach our offices to assist in the resolution of a dispute, over which the council has jurisdiction.

As an employee (or former employee), you can approach the nearest **NBCRFLI** regional office. After having made contact with the **NBCRFLI** office, either by visiting or by telephone, fax or email, you will be provided with a referral form which should also be forwarded to the other party you are having a dispute with. Proof of service must accompany the form sent to the **NBCRFLI**, so that the **NBCRFLI** can schedule your dispute for the hearing.

The case management officer will assist you in filling out your dispute forms, if you need help. There are no additional costs to be paid for using the Council's dispute resolution services. The costs are covered by your monthly Council levy deducted by your employer and equally paid together with your employer's portion directly to the **NBCRFLI**.

Types of disputes you can refer to the NBCRFLI

- Disputes about the interpretation or application of the provisions of Chapter II (Section 9)
- Disputes regarding a proposed strike or lock out (Section 64(1))
- Disputes in essential services (Section 74)
- Disputes about unfair dismissals (Section 191)
- Disputes about severance pay (Section 196)
- Disputes about unfair labour practices (Item 2 in Schedule 7)

**Disclaimer:** This brochure has been designed to provide you with more information about the NBCRFLI. Throughout this brochure you will find information that will help you as an employee or employer to understand the business processes of the **NBCRFLI**, including the dispute resolution processes.

Should you require any additional information, please contact your nearest **NBCRFLI** office or visit our website at **www.nbcrfli.org.za**

Resolving disputes quickly & efficiently

One of the core functions of the **NBCRFLI**, in terms of the Labour Relations Act, is to prevent and resolve labour disputes within the road freight and logistics industry, as per its mandate to manage and enforce the conditions of employment between industry employers and employees.

In order to resolve unfair dismissal and disputes of a similar nature, the **NBCRFLI** is accredited by the CCMA to perform dispute resolution by using CCMA accredited commissioners. These commissioners are also used to arbitrate enforcement disputes.

What is conciliation?

Conciliation is a process whereby CCMA accredited commissioners who are selected for the **NBCRFLI** panel of commissioners, meet with the employer and employee parties in dispute, and explore ways to resolve the dispute. No legal representation is permitted in terms of the rules. This is a without prejudice and off the record process.

In order for the parties to reach an agreement, both parties need to be present at the conciliation hearing. If one of the parties fails to attend the conciliation hearing, the matter will remain unresolved and may then only be resolved by arbitration or the Labour Court, depending on the type of dispute.

Sometimes parties do not attend conciliation as they rather want an adjudicative (or arbitration) process. It is however important to note that arbitration is a far more stressful, time-consuming and expensive process.

What are the benefits of attending the conciliation hearing?

- It is far more beneficial for parties to resolve disputes at the lowest level of resolution. By attending the hearing, both parties are able to avoid the unnecessary costs involved in the arbitration process. These costs are due to the length of the process, the possible attendance of witnesses, the time that the parties need to take from work to attend the arbitration and the extra administration that is involved.
- The conciliation process is private, confidential and without prejudice.
- It is less time consuming than arbitration.
- The **NBCRFLI** has 18 offices countrywide, thereby making it more convenient for Council stakeholders to resolve their disputes through the conciliation process.

How long does the conciliation process take?

- When a conciliation hearing is scheduled, it is done so within 30 days of referral. Most conciliation hearings normally take 30 minutes to 1 hour.
- However, when a conciliation matter remains unresolved the party can refer the matter to arbitration. This is a 90-day process.
- It is important to note that the conciliation and arbitration processes need to be heard within 120 days.

What if I am not available on the date of the conciliation?

The matter remains unresolved.

What if there is no agreement at the conciliation hearing?

If the parties cannot reach an agreement at conciliation level, the matter remains unresolved and the dispute can be referred for arbitration.

How do I prepare for the conciliation hearing?

- Document all the issues you wish to discuss.
- All parties should be presentable and professional.
- Be open-minded, courteous and willing to provide all the relevant facts. Being aggressive or stubborn will only make the process lengthier and more difficult to resolve.
- Make sure you commit to the date and time of the hearing

What do I bring to the hearing?

- Notice of set down given to you by the Council.
- A note on the history of the event, detailing the facts of the event.
- It is also important that you know your facts, why you are at the hearing and the result that you require.

Who may represent me at the conciliation hearing?

An employee may appear in person at any proceedings before a commissioner or be represented by a member, official or office bearer of a registered trade union that the employee was a member of at the time the dispute arose.

An attorney or a consultant may not represent you at conciliation.

What types of outcomes are there at conciliation hearings?

- There may be a variety of outcomes, but usually they are as follows:
  - Resolved through a settlement or;
  - Unresolved, where the referring party has the opportunity to escalate the dispute to arbitration.
- The types of conciliation settlements include: financial settlements and/or reinstatements.

Please refer to website: **www.nbcrfli.org.za** or contact your local designated agent to find out more about the Council's dispute resolution process.

What is arbitration?

Arbitration is an escalation of the dispute resolution process in that it is lengthier and involves the use of a legal representative. It is essential that the involved parties attend the arbitration. Failure of both parties to attend will result in dismissal of the case.