

KNOW_{the} LAW

The superior newsletter from Clientèle Legal

AS SEEN ON TV

All cases featured on Clientèle Legal ads are true stories of actual clients.



Wayne Le Roux – Actual client



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UNFAIR DISMISSAL? CALL YOUR LAWYER!

My employer called me into the office and told me I was fired. Just like that. I was in shock.” Wayne Le Roux, a client of Clientèle Legal, recalls the horror of being unfairly dismissed. “It came out of the blue. There had been tension between me and my boss, but I did not expect this. There were no warning letters or hearings or anything. I was devastated.” Luckily for Wayne, he had a Clientèle Legal policy and his Clientèle Legal lawyer corrected the situation. Le Roux was reinstated.

Cyril Mbatha, a Legal Advisor from Clientèle Legal says what happened to Wayne is not uncommon. “In South Africa, workers are still learning how to stand up for their rights in the workplace. That is why having a lawyer is tremendously helpful and can empower you in your labour matter.”

Cyril explains that in this instance it was a clear case of an unfair dismissal. “The fairness of a dismissal is decided in two ways. Firstly whether the dismissal was ‘substantively fair’ and secondly, whether the dismissal was ‘procedurally fair.’

“Substantive fairness” means that there is a fair *reason* the employee was dismissed. For instance; did the employee not do their job properly, commit a misconduct at the workplace or the

company might be retrenching employees.

Secondly, ‘procedural fairness’ points to the fact that certain procedures have to be followed. Employers must notify the employee of allegations against him in a form and language that the employee can reasonably understand and the employee should be allowed an opportunity to state his case. This could be done verbally or in a written form.

The employee should be given reasonable time to prepare a response and be allowed the assistance of a fellow employee. A disciplinary hearing should follow where the employee is allowed witnesses and should be allowed to submit evidence.

“In Wayne’s case, his employer made several legal transgressions. Wayne was never informed of allegations against him, no disciplinary hearing was held and procedures were not properly followed. It was a clear case of an unfair dismissal. We were glad to assist him with this matter.”

Wayne says he was very delighted with the service from Clientèle Legal. “The lawyers were tough and very professional. I would not have been able to deal with this matter by myself. It is too confusing and too emotionally traumatic at the time. Good legal advice is important, as important as having a good doctor.”



Lawyer’s Tip

‘A job is precious. Protect it.
Know your legal rights and claim them.’

Cyril Mbatha. Legal Advisor.



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THE TOP 3 THINGS YOU SHOULD KNOW ABOUT...

DELETING A CRIMINAL RECORD



1

A criminal record can be for life

Don't get one. Stay clean on the right side of the law. Most employers now have access to the criminal record database and this could prevent you from getting gainful employment. Criminal records can also affect you when applying for a visa, a loan or renting a property.



2

Criminal records can be removed (expunged from the national crime register)

This will apply to crimes you have been convicted of more than 10 years ago and you must not have been re-convicted of a similar crime in the past 10 years.



3

The expungement only applies to minor crimes

This includes crimes where the person has not been sentenced to imprisonment without the option of a fine, not exceeding R20,000. These crimes include: public intoxication, jaywalking, public indecency, petty theft, shoplifting, possession of small amounts of drugs, or traffic offences.

THE

LIGHTER
SIDE

Why Clientèle Legal is a good choice!

A man phones a lawyer and asks, "How much would you charge for just answering three simple questions?"

The lawyer replies, "Two thousand Rand."

"Two thousand Rand!" exclaims the man.

"That's very expensive isn't it?"

"It certainly is," says the lawyer. "Now, what's your third question?"



Don't let debt ruin you!

Celebrities often make the news headlines by going broke. Multimillionaire Donald Trump was once broke. Megastar Michael Jackson died broke and locally, popular rapper, 'Zola' was also reported to experience financial troubles.

Sumantha Singh from Clientèle Legal says statistics show that many ordinary South Africans live on the edge of perpetual 'brokenness'. Many consumers owe as much as *75% of their income to creditors and we see a definite increase in debt related claims for the first six months of the year, due to overspending during Christmas. Sumantha says that many South Africans are ignorant of their legal rights in relation to debt. 'Simple things like understanding that you do not have to repay a prescribed debt can make a big difference to a consumer. You will be required to repay your debt if it has not prescribed and an Emoluments Attachment Order (EAO), often referred to as a "Garnishee order", might be issued against you. It is important that you know your rights when it comes to EAOs.'

An EAO refers to the attachment of an income/salary of a debtor. In other words, let's say you owe Stuttafords money. After obtaining judgement against you, Stuttafords may get a court order that will instruct your employer to deduct a certain amount of money from your salary on a monthly basis towards payment of your debt. Even in this instance, there are legal processes that need to be followed. If the processes are not followed, you have the right to challenge the EAO. You should receive a notice telling you to appear in court on a certain date. You can give consent to the order, alternatively the court will assess your financial position and might make an order it sees as just and fair. Consumers are often unaware that an order has been made against them. The order has to contain certain specifics, such as the case number, the amount of debt, the interest rate and the Magistrates Court in which the order was granted. It is also very important that you get a copy of the order from your employer as it would be served directly on the employer by a Sheriff of the court.

"Do not sign incomplete forms or forms that you do not understand," warns Sumantha. "Our clients often fall into this trap, which makes it difficult for us to argue that they did not consent to the EAO. If the EAO is successful, it will remain valid until the full amount is paid off. "Avoid falling into debt," advises Sumantha. If you do have debt problems, Clientèle Legal can guide you in the right legal direction.

(*Source: BusinessTech, quoting Debt Rescue, August 2015)

LEGAL TIPS



AVOID THE EMBARRASSMENT OF BEING SUBJECTED TO A EMOLUMENT ATTACHMENT ORDER BY FOLLOWING THESE RULES:

- Do not sign incomplete forms or forms that you do not understand
- Do not ignore legal letters/documents that are served on you. Always check your salary slip for any unauthorised deductions

SUPERIOR LEGAL SERVICES IN ACTION

A word from our new Managing Director



Laurence Balcomb
Managing Director
Clientèle Legal

'I am extremely proud to be the Managing Director of Clientèle Legal.' says Laurence Balcomb who joined Clientèle Legal recently. "It is an honour to be associated with a vibrant, dynamic and focused group, dedicated to supplying all South Africans with superior legal services at an affordable price." Laurence says Clientèle Legal has had another record year, in which they handled 118,000 distinct claims between 1 March 2015 and 29 February 2016. "It is an excellent achievement for my team and one we intend to build upon. We hire only professional and qualified lawyers and legal advisors and are consistently improving our processing systems to give our clients a faster and more efficient service. We are also launching a new look and feel for the Know the Law newsletter in the future and would like our readers to give us their feedback."

For more information on our products or for back issues of KTL, visit our website on www.clientele.co.za

What our clients say about our service



"I was defrauded and criminally charged. Clientèle Legal solved the case and cleared my name. Thank you."

Nicolene van Zyl

Actual client

"I had a garnishee order against me, which Clientèle Legal handled with utmost professionalism and privacy."

Client wishes to remain anonymous

Actual client

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