



ARBITRATION AWARD

Case No: **PSHS1268-19/20**

Commissioner: **T Erasmus**

Date of Award: **7 August 2020**

In the matter between:

NEHAWU obo RAZAAN STAIN

Union/ Applicant

and

DEPARTMENT OF HEALTH: WESTERN CAPE

Respondent

Details of hearing and representation

1. This matter was set down for Arbitration at the Public Health and Social Development Sectoral Bargaining Council in terms of section 186(2)(b) of the Labour Relations Act 66 of 1995 (“the LRA”) and was held virtually on 28 July 2020. The applicant was represented by Mr. L Nazo from NEHAWU, whilst the respondent was represented by Mr. A Mniki, Labour Relations Officer at Respondent.

Issue to be decided

2. I must decide whether the applicant was subjected to an unfair labour practice.

The applicant's case

3. The applicant did communicate her leave of absence to the respondent. The applicant is not concerned about the written warning, it lapsed 27 July 2020.
4. **RAZAAN STAIN testified in support of her own case (hereinafter referred to as “the applicant”)**
5. The applicant testified that she signed a leave form on 25 December 2019, requesting an additional 5 (five) days leave. She came in on her off day on Friday, 27th of December 2019, to request the extra leave days from her manager, Ms. Hardnick. She was unable to find Ms. Hardnick where after she asked Mr. Griqua on the switch board if he knew where Ms. Hardnick was. He was unable to tell her. She then left her leave form with Mr. George who undertook to ensure that Ms. Hardnick received the leave form. She also tried to phone Ms. Hardnick on both her cellular phone and landline, but she was unable to reach her.
6. Reference was made to page 4 of bundle A where the applicant submitted a leave form with Mr George in the past and he signed the leave form. This was also the first time that she applied for leave and submitted the leave form with Mr George. According to the applicant the norm was that staff would discuss their leave amongst themselves and if Ms. Hardnick was not there, the leave form would be left with Ms. Ebden, one of the switch board operators. It has never happened in the past that leave is not approved. Ms. Hardnick would approve leave, even if she left the leave form with Ms, Ebden.
7. The applicant was called to Ms. Hardnick's office to attend an audi alteram partem discussion with Ms. Hardnick, together with the applicant's shop steward. The applicant returned to work on Monday, 20 January 2020. During the *audi*, Ms.

Hardnick informed her that she would receive 7 (seven) days unpaid leave and that she could appeal if she was unhappy.

8. The applicant received a call from Ms. Ebden who informed her that she had to report for duty on Monday, 20 January 2020, instead of Wednesday, 22 January 2020, in terms of her duty roster. The applicant is employed as a switch board / Telkom operator.
9. Reference was made to page 6 of bundle A, being the Determination and Directive on Leave of absence in the public service, more specifically the last paragraph on page 9, paragraph 5.7 and 5.8 thereof dealing with annual leave. According to the applicant her understanding of the above Policy, was that if her leave was not approved, she could expect a call from her supervisor to inform her that the additional leave was not approved. She would normally leave her leave form at the office and the supervisor would call her if there was a problem. She did not receive a call from her supervisor informing her that the extra leave she requested was a problem at all.
10. Reference was made to paragraph 5.9.1 and 5.9.2 on page 10 of bundle A:

“5.9.1 notify the employee that if such application is not received within 2 working days, the leave period will be regarded as unpaid leave; and

5.9.2 inform the Human Resource division, should the employee default on the notification referred to in paragraph 5.9.1 referred to above.”
11. According to the applicant, her understanding was that her manager or supervisor must inform her within 2 (two) days that her leave was not approved. She did not receive such communication from her manager, informing her that her leave was not approved. Therefore, she had no reason to believe that her leave was not approved.
12. Reference was made to paragraph 5.10 on page 10 of bundle A:

“5.10 Failure by the employee to submit his/her application form within the stated periods, or failure by the supervisor/manager to properly manage it, must be viewed in a serious light and disciplinary steps against the employee and/or supervisor/manager should be taken.”

13. According to the applicant, her understanding was that she should have been called or given reasons why her leave was not approved in writing or by way of a phone call. Reference was made to page 13 of bundle A. When the leave record was requested on the 3rd of February 2020, the applicant had 7 (seven) leave days to her credit. She also had these leave credits at the time when she applied for the extra days.

The following ensued from cross-examination:

14. It was put to the applicant that the reason why she came in on the 27th of December 2019 was because her leave was not initially approved. The applicant disagreed that her leave was not approved, as the two-week period was pre-approved on her yearly planner, although she conceded that she did not submit a leave form prior to 27 December 2019. The applicant however denies that she was required to submit a leave form, before she went on leave. She denies that her leave form was still outstanding when she came to the office on 27 December 2019. According to the applicant, her approved leave was for the period from the 30th of December 2019 until the 10th of January 2020. The applicant conceded that the leave for the period from 30 December 2019 until 10 January 2020 was approved, but the leave form had not been submitted. The applicant confirmed that she came to the office on the 27th of December 2019 to submit her leave form.
15. Reference was made to the Determination and Directive on Leave of absence in the Public Service, dated June 2018 beginning on page 7 of bundle A and more specifically paragraph 5.8 on page 10 thereof, which reads as follows:

“5.8 If confronted with unforeseen circumstances which necessitate the utilization of annual leave, the employee must personally notify his/her

supervisor/manager immediately. A verbal message to the supervisor/manager by a relative, fellow employee or friend is only acceptable if the nature and/or extent of the unforeseen circumstances prevents the employee from informing the supervisor/manager personally.”

16. The applicant confirmed that she had Ms. Hardnick’s cellular phone number and that Ms. Hardnick would have to give her permission to go on leave. She confirmed that her leave started on the 30th of December 2019. She phoned Ms. Hardnick but did not leave a voice message. She only heard Ms. Hardnick’s voice mail. The applicant was challenged as to how she expected Ms. Hardnick to know about her unforeseen circumstances. She conceded that it was her responsibility to communicate with the manager. Nobody stopped her from sending a message to Ms. Hardnick to inform her of the problem. She however did not send Ms. Hardnick a message, because when she spoke to Mr George, he promised that he would speak to Ms. Hardnick about her leave. The applicant was challenged on this as this is not what George said to her. George said to her that he would ensure that Ms. Hardnick receives the leave form, to which the applicant conceded. The applicant confirmed that only Ms. Hardnick would give her permission to extend her leave as Mr. George does not normally grant her permission to go on leave.
17. Reference was made to paragraph 5.9 on page 10 of bundle A, where the following is stated:

“5.9 An employee must submit an application for annual leave personally or through a relative, fellow employee within 5 working days after the first day of absence. If the employee fails to submit the application on time or compelling reasons why an application cannot be submitted, the supervisor/manager must immediately

5.9.1 notify the employee that if such application is not received within 2 working days, the leave period will be regarded as unpaid leave; and

5.9.2 inform the Human Resource division, should the employee default on the notification referred to in paragraph 5.9.1 referred to above.”

and the relevant authority shall approve such absence as unpaid leave. The employee’s supervisor/manager/Head of Department and/or his/her delegate must within two working days from receipt of the leave application form recommend/not recommend and/or approve/disapprove this leave application and submit to the relevant Human Resource division in the department.”

18. The applicant was challenged on where in the Policy it is stated that her supervisor was supposed to phone her to inform her that her leave was approved or not. It was put to the applicant that it is her own responsibility to establish whether her leave was approved or not, to which the applicant responded that Ms. Hardnick gave them permission to put their leave forms in the office. The applicant stated that if one is given leave in principle where the supervisor is aware of it, then the leave form can be left in the office with a colleague, but Ms. Hardnick was not aware of the additional days.
19. It was put to the applicant, that although the leave was approved, it was unplanned leave from 30 December 2019 until 10 January 2020. The applicant denied this and stated that it was part of her yearly planner. It was put to the applicant that the issue of unplanned leave was communicated to the staff, namely that unplanned leave will no longer be approved.
20. Reference was made to the last bullet point on page 6 of the respondent’s bundle where Ms. Hardnick stated the following:
 - *“Ms Hardnick emphasized this will be the last time she will approve unplanned leave, she will only approve unplanned leave if it is an emergency, e.g. Death.”*

21. It was put to the applicant that unforeseen circumstances must be communicated to her supervisor, which she failed to do. It was put to the applicant that in terms of paragraph 5.9 of the Determination and Directive on Leave of absence in the Public Service, she indicated that Ms. Hardnick is the person who would grant leave. The applicant responded that she was allowed to give her leave form to a fellow employee or a friend. It was put to the applicant that it was not impossible for her to communicate with her supervisor, to which she conceded, but she stated that she made it her duty to inform Mr George about the additional days and he made it clear that he will inform Ms. Hardnick. It was put to the applicant that the policy does not state that she has to come to the hospital, but she came to the hospital, because she had to lodge a leave form. She did not make an effort to contact her supervisor after she left the leave form with George, therefore she cannot state that she could not get hold of the supervisor.

The respondent's opening statement

22. Evidence will be led through the supervisor that there is a rule if one wants to go on annual leave, one must obtain permission from the supervisor. The applicant knows the rule very well. There are minutes of the meeting where the issue of unplanned leave was addressed. The applicant just submitted her leave form and went on leave, without permission.
23. **FRANCOISE HARDNICK testified on behalf of the respondent (hereinafter referred to as "Ms. Hardnick")**
24. Reference was made to page 4 of bundle R, being the applicant's leave form. Ms. Hardnick denies that she ever gave permission to the applicant to take the leave as requested by the applicant. Ms. Hardnick testified that only the applicant's leave from the 30th of December 2019 until the 10th of January 2020 was approved. Ms. Hardnick referred to the minutes of the meeting on page 6 of bundle R. She confirmed that they have a meeting every second or third month. Leave is normally discussed in October of each year with the staff. If two people want to go on leave

at the same time, she tells them to discuss it amongst themselves and put it in writing.

25. Reference was made to the bottom of page 6. There are three (3) females in the department who have children at the school, therefore they have to plan amongst themselves. Ms. Hardnick confirmed during the meeting that unplanned leave will no longer be approved. It was put to Ms. Hardnick that the applicant testified that this was never discussed at the meeting. This was denied by Ms. Hardnick. On the 19th of September 2019 there were three (3) parents in the meeting and she said they must discuss the leave amongst themselves. The applicant wanted unplanned leave, but she said it was not possible. There are only three (3) people in the department and there must be one person on a shift.

26. Ms. Hardnick confirmed that she was on duty on the 27th of December 2019. She assisted in the linen bank at the time, as she needed to step in when someone is off as this department reports to her. The applicant knows that if she cannot get hold of Ms. Hardnick, she can send a Whatsapp to which Ms. Hardnick would respond, but the applicant did not send her a Whatsapp. The applicant has sent herWhatsapps in the past. The applicant's leave was already discussed; therefore, she did not expect the applicant to request for more leave.

27. Ms. Hardnick referred to page 3 of bundle R, being the applicant's *audi*. Hardnick called her director in to the meeting and he explained to the applicant that calendar days are included in the leave days. The applicant did not ask for extra leave before she went, she said whenever they go on holiday, when they leave the gate, they book for the following year. The applicant admitted that it was pre-planned. She told Mr. Mashedi that they were at Goudini Spa. She did not inform Ms. Hardnick or Mr. Mashedi the reason for her unplanned leave, namely that she had to take her child to school. Ms. Hardnick was never informed of this before. She could not approve it again, Ms. Hardnick had to follow the policy.

28. Reference was made to page 4 of bundle A. Ms. Hardnick confirmed that she approved the applicant's leave from 30 December 2019 until 10 January 2020. She confirmed her handwriting on the leave form. At the bottom of the page, Mr George stated: "*I inform her that I cannot permission.*" Mr George is the Chief Porter. He can give leave to Ms. Hardnick's subordinates, only when she is not on duty and he did not give authorisation in this instance. She specifically stated: "*Not approved, wait until Ms Stain returns from approved leave.*" The notice was dated 6 January 2020.
29. Reference was made to page 5 of bundle, "*no communication and unauthorised absence*". The applicant was given a sanction of a written warning and unpaid leave was administered by the Human Resources Department.
30. Reference was made to page 10 of bundle A, being the applicant's response to the *audi*. Ms. Hardnick confirmed that she did not receive an e-mail or a Whatsapp from the applicant. The applicant was on duty on the 24th and the 25th of December 2019. She did not ask Ms. Hardnick for leave on any of these days. Only Ms. Hardnick could give the applicant permission to take leave. The applicant did not come to Ms. Hardnick on 27 December 2019, or Whatsapp her as she normally does. It was put to Ms. Hardnick that the applicant stated that is was the norm that if they want to go on leave, they discuss it amongst each other and then put the leave form in the office. This was denied by Ms. Hardnick as it has to come through her, she then tells them to inform their colleagues, after Ms. Hardnick as approved it.

The following ensued from cross-examination:

31. Ms. Hardnick testified that the applicant's leave was not declined, it was approved from 30 December 2019 until 10 January 2020. The additional days in January 2020 were not approved as she did not communicate with Ms. Hardnick, she did not receive anything from her. She received her leave form somewhere before the 6th of January 2020, but she had no communication from the applicant, as far as she can remember, she received the leave form on the 31st of December 2019 and

she decided to keep it safe until the applicant returned from leave. This only happens when leave is not approved. Ms. Hardnick confirmed that Mr George gave her the applicant's leave form and said he told her he did not give her permission. Ms. Hardnick confirmed that both herself and Mr George are very busy. He did not give the leave form to her immediately on the 27th of December 2019, as they have seven (7) days to submit leave forms with Human Resources. The applicant took extra days that were not approved.

32. Reference was made to page 6 of bundle R. She confirmed that the school holidays referred to were that of December 2019 school holidays. The three (3) parents came together and sorted out the leave amongst themselves. She stated that it was "the last time she would approve unpaid leave". She said only in case of death/sickness, emergencies that cannot be prevented and that proof of sickness has to be handed in. Shifts are worked out and unplanned leave throws the whole shift system out. It is about operational requirements that will always get preference.
33. Bullet 3: "*Colleagues who are willing to assist, need to contact Ms Hardnick asap.*" Ms. Hardnick was questioned on what she meant by this. She responded that it was colleagues who do not have children. The applicant was fully aware of the arrangement and they had to discuss and arrange with her who would cover each other's shifts. One cannot decide to go on leave if no-one else was on leave, the point is, you must communicate with your supervisor.
34. Ms. Hardnick confirmed that the applicant was at the meeting, therefore she was aware of Ms. Hardnick's decision that she will no longer approve unplanned leave. She normally goes through the minutes and distribute it amongst the attendees the following day. The meeting was held on 19 September 2019, she would look at it on the Friday and mail it to the staff the following week. She would have it printed, as not all of the employees have e-mail addresses. According to the applicant's representative, the applicant only received the minutes on the 21st of January 2020. Ms. Hardnick confirmed that that was in the January 2020 meeting, she sent out the minutes before the time. It was put to Ms. Hardnick that she added the last

sentence that “unplanned leave will no longer be approved” only in the minutes on 21 January 2020. This was denied by Ms. Hardnick, as she already sent out the points for discussion on 14 January 2020. The January 2020 minutes is irrelevant. The last bullet on the meeting of 19 September 2019 was discussed at that meeting.

35. Reference was made to page 8 of bundle R. Ms. Hardnick confirmed that she wrote this letter to her supervisor, Mr. Mashedi and the labour relations officer, Mr. Sonkwala, as the applicant failed to communicate with her.
36. Ms. Hardnick confirmed that it was not the first time that the applicant took unplanned leave, it also happened in 2018 of which Ms. Hardnick has written proof. It was put to Ms. Hardnick that the applicant will deny this. Ms. Hardnick testified that the applicant took unpaid leave from 28 December 2018 until 10 January 2019. She did not give her leave without pay, she gave her a written warning at the time. From April 2019 until December 2019: the applicant had to inform Ms. Hardnick who would be covering for her. It was overlooked, because she gave the applicant a verbal warning in the presence of her union representative, Mr Ventura. You cannot book holiday accommodation and then ask for leave. One has to consider your colleagues and operational requirements.
37. Reference was made to page 11 of bundle R. In the case of leave without pay one has to submit every conversation you have with the employee and the union representative to labour relations. It was a formal meeting, because Ms. Hardnick issued the applicant with a written warning on the same date, 27 January 2020, in the presence of Mr Ventura.
38. “Formal meeting”: Ms. Hardnick mentioned that employees can appeal if they are not satisfied. Respondent does not serve a charge sheet on employees, only the Labour Department at Head Office can serve such notices. Ms. Hardnick did not serve the applicant with a charge sheet, as it was not necessary. It was put to Ms. Hardnick that she did not follow due process as there was no charge sheet or a formal hearing. Ms. Hardnick responded that they followed the procedure, Labour Relations would inform them if they had to take the matter any further.

39. Ms. Hardnick confirmed that the applicant was supposed to resume her duties on 13 January 2020, but she only returned to work on 20 January 2020. The leave of absence period states from 13 until 19 January 2020. Ms. Hardnick was questioned on which process the supervisor should follow if an employee fails to report for duty on the day he/she is expected back at work. Ms. Hardnick responded that she must be informed where after the matter will be discussed and then they would complete the relevant Z1 form.
40. Ms. Hardnick was challenged on whether she has any obligation to find out where the employee is. Ms. Hardnick responded that it is not her responsibility, an employee must inform his/her supervisor of the reason why he/she is not at work. The same procedure is followed when an employee is late for work, one must inform his/her supervisor if you are going to be late. Ms. Hardnick was challenged that the respondent has a responsibility to do a follow up on why one of the staff failed to report for duty. Ms. Hardnick denied this and maintained that it is not her responsibility. The respondent has a policy that if a shift worker is not on duty after 7 days, he/she has not reported for duty. The respondent must enquire from the employee why the employee failed to report for duty and ensure that the employee reports for duty the following day. Ms. Hardnick was questioned on why the driver was not sent. Ms. Hardnick responded that the applicant knew her leave was only approved until the 13th of January 2020. The applicant completed a form until the 18th of January 2020, knowing that she only had approved leave until the 13th of January. The applicant was due to return to work on 20 January 2020 in terms of the unplanned leave.
41. Reference was made to page 4 of bundle R. In terms of the leave policy, one has to make a call within two (2) days. Reference was made to page 10 of bundle A, more specifically paragraphs 5.7 and 5.8 thereof. "Unforeseen circumstances": The applicant had to prepare her child for schooling, which amounts to unforeseen circumstances, that is why the applicant came to work on the 27th of December 2019. Ms. Hardnick confirmed that both she and the applicant were on duty on the 24th of December 2019. The applicant completed the Z-form on the 25th of

December 2019, but she did not give it to Ms. Hardnick, the applicant could have sent a whatsapp message to Ms. Hardnick. It was put to Ms. Hardnick that the applicant was off duty on the 24th of December 2019. Ms. Hardnick responded that even if the applicant was off on the 24th of December 2019, she was at work on the 25th of December 2019. The leave period will be regarded as unpaid leave. The applicant does not dispute that she submitted the leave form on 27 December 2019. The applicant received a written warning as a sanction and Human Resources then imposed unpaid leave, as the latter is not within Ms. Hardnick's powers.

42. It was unfair of Ms. Hardnick to impose a written warning and unpaid leave. Ms. Hardnick did refuse the leave, the applicant did not communicate the extra leave with Ms. Hardnick. Ms. Hardnick was challenged that she denied that a leave form amounts to communication. Ms. Hardnick responded that it would have been totally different if the applicant had requested the leave by communicating with Ms. Hardnick.

The following ensued from re-examination:

43. It was put to Ms. Hardnick that on 21 January 2020 she sent an e-mail with the minutes of 19 September 2019 attached. The applicant never brought it to Ms. Hardnick's attention that she disagreed with the information in the last sentence. The previous minute was accepted in the meeting on 12 of January 2020. Ms. Hardnick was challenged on that she indicated that it is not the first time that the applicant took unplanned leave, but she overlooked it on the previous occasion. The applicant denies that she took unplanned leave before. Ms. Hardnick approved the leave the first time. The applicant wrote a letter asking for unplanned leave.
44. Reference was made to page 6 where it was stated that this was the last time that Ms. Hardnick will approve unplanned leave. Ms. Hardnick responded that this is their annual leave and they must plan their annual leave. Ms. Hardnick was questioned on what leave was approved on the outcome of the September 2019 meeting. Ms. Hardnick responded that the period was from 30 December 2019

until the 10th of January 2020. The leave requested was discussed and approved. The period from 13 January 2020 to 18 January 2020 was not approved in this meeting. It was not communicated to Ms. Hardnick in this meeting and everybody agreed on the leave.

The applicant's closing arguments

45. The applicant did communicate her leave of absence by completing her leave form when she spoke to Mr. George. It was unfair to give the applicant the sanction of unpaid leave and a written warning. The respondent could have phoned the applicant and informed her that her leave was not approved, then she could have returned to work. The applicant had a leave credit that could have been allocated to her. The applicant seeks an order in terms where of the monies deducted from her salary to be reimbursed. The amount of R485.60 per month was deducted for a period of six months.

The respondent's closing arguments

46. The issue of unpaid leave is a Human Resources administrative process, the applicant had to submit her complaint in this respect to a different council, namely the PSCBC in terms of Resolution 7 of 2000, dealing with leave, which is the correct forum, the current forum has no jurisdiction dealing with leave. The sanction given to the applicant was a written warning, in line with the code. In terms of the merits, the credibility of the applicant was greatly compromised at the Arbitration, because she did not speak the truth. The applicant said the unpaid leave was due to unforeseen circumstances. When she spoke to Mr. Mashedi, she said they go to Goudini Spa every year, the applicant was aware of the holiday from the beginning of the year.
47. The evidence on page 8 of bundle R was not refuted by the applicant. The applicant did not deny the evidence of what she said to Mr. Mashedi was not denied, she was misleading this forum. It is not the first time that the applicant wanted to take unpaid leave, as referred to 2018 where the applicant also took

unpaid leave. The applicant sent a letter about the unpaid leave. That letter also showed that the applicant cannot be trusted. The applicant denies a sentence in the minute of the meeting held on 19 September 2019, yet up to today the applicant did not tell Ms. Hardnick, that the information in the minutes is incorrect or misleading. The reason being, is because the minutes are indeed correct. There was no situation preventing the applicant from speaking to Ms. Hardnick. The applicant did not dispute Ms. Hardnick's evidence, namely that she could send her a Whatsapp message. The responsibility lies with the applicant when applying for annual leave to ensure that it was granted. The applicant should have discussed it with her manager before she went on leave. The process was fair. Ms. Hardnick was entitled to follow a less formal process when giving a written warning. Unpaid leave was not part of the sanction, it should be dealt with by a different forum.

Replication

48. There was one request to send one page for leave they took between 13 December 2019 until 10 January 2020.

Analysis of the evidence and argument

49. The undisputed evidence before me was that Ms. Hardnick informed the staff reporting to her in the meeting on 19 September 2019 that unplanned leave will no longer be approved by her, unless it is an emergency and the employee in question would have to provide proof of the alleged emergency. Ms. Hardnick explained the operational requirements as the basis for this decision. At no stage did the applicant bring it under Ms. Hardnick's attention that she disagreed with the minutes of this meeting and the applicant was present in this meeting.
50. Ms. Hardnick overlooked applicant's unplanned leave in 2018, but the applicant received a written warning at the time, therefore the applicant was already aware of this rule in 2018. It is common cause on the evidence before me that the applicant did not communicate with Ms. Hardnick in order to request the unplanned leave any time on or after 27 December 2019, after she left her leave form with Mr

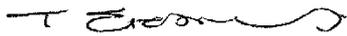
George. The applicant conceded that Mr George was not authorised to grant the unplanned leave, if Ms. Hardnick was on duty, as she was on 27 December 2019,

51. It remains the applicant's responsibility to ensure that her request for unplanned leave was indeed granted by Ms. Hardnick, before staying away from the workplace. It can never be the respondent's responsibility to make contact with the applicant to communicate the refusal of the unplanned leave with the applicant, in terms of the respondent's policy.
52. The applicant did not dispute Ms. Hardnick's evidence, that the applicant and her colleagues have send Ms. Hardnick whatsapp messages in the past, if they could not get hold of Ms. Hardnick, to which Ms. Hardnick would respond as soon as she had an opportunity to do so. The applicant admitted that she did not send Ms. Hardnick a whatsapp or any other form of message on the 27th of December 2019 or anytime thereafter to communicate her request for unplanned leave.
53. I find that the applicant was aware of the rule against taking unplanned leave. The applicant failed to communicate with her supervisor, Ms. Hardnick, although she was aware of the requirement to communicate with her supervisor, especially in the light of the written warning that she received in 2018. I find that the written warning served on the applicant was justified. I do not have jurisdiction to deal with the question of unpaid leave, as only the PSBCC has jurisdiction to deal with unpaid leave.
54. I find that the applicant was not subjected to an unfair labour practice.

Award

55. I find that the applicant was not subjected to an unfair labour practice.

56. Therefore, the applicant is not entitled to any relief.



COMMISSIONER: T ERASMUS