

MISAeDATA

NEWS & VIEWS FOR MOTOR INDUSTRY STAFF ASSOCIATION MEMBERS | MAY 2021



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We want our legacy to stand upon the youth.
We want to give knowledge to the younger
generation and be a part of
changing the game.

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REFUSAL TO SELF-ISOLATE COULD LAND YOU IN HOT WATER

Recklessness can lead to dismissal

By: Tiekie Mocke
Manager, MISA Legal Department

A recent Labour Court judgment has confirmed the fairness of a COVID-19 positive employee's dismissal after he continued to work. The case also highlights the ignorance and disregard with which the COVID-19 health issue is treated by many.

The reality of the COVID-19 virus (and the subsequent emergence of different strains) is that it will be with us for some time to come.

The protocols and safety measures developed and implemented since 27 March 2020 remain in place. These include keeping a safe distance, refraining from physical contact, self-monitoring for possible symptoms (such as fever or loss of taste), testing early once symptoms are detected and providing full disclosure of the result of the test or potential exposure to COVID. Last, but not least, is the requirement to self-isolate.

The Labour Court Perplexed

Stuurman Mogotsi, an assistant butcher at Eskort Limited Sources, a national meat supplier, travelled to and from work with a co-worker. During lockdown level 3, the co-worker fell ill, went to a medical practitioner and was booked off from work for the period of three days (1 to 3 July 2020). Sick leave was extended and the co-worker was subsequently admitted to hospital on 6 July 2020 and informed on 20 July 2020 that he was COVID-19 positive.

Mogotsi also fell ill at approximately the same time and consulted a traditional healer, who also happened to be his wife. He was booked off from work for two days on 6 and 7 July 2020 and subsequently again 9 and 10 July 2020.

Hereafter, Mogotsi reported for duty despite being asked by management to rather stay at home. He continued working throughout July 2020. Being aware of his colleague's COVID-19 status, after 20 July 2020, Mogotsi continued to work and went for a COVID-19 test on 5 August 2020, still continuing to work while waiting for the results.

Continued to work, even hugging a co-worker

On Sunday, 9 August, he received the results of his test, which confirmed him to have COVID, yet reported for work the following day. There he hugged a fellow employee, who had heart surgery some five years earlier and had recently experienced post-surgery complications. He then confirmed his COVID-19 status to two managers.

His reckless conduct led to his dismissal.

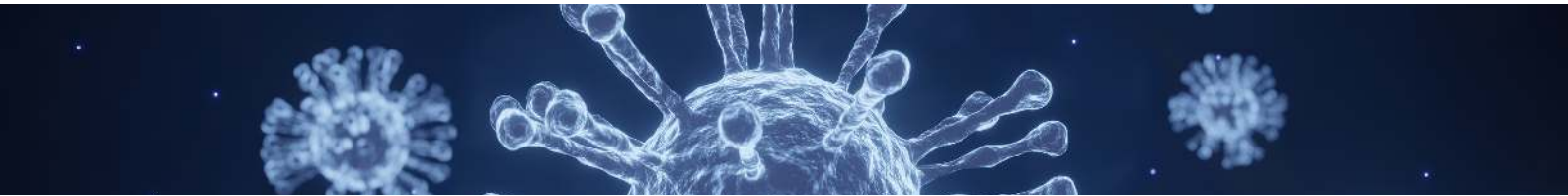
The defense against dismissal raised by Mogotsi was that he was victimised and that he did not know he needed to self-isolate.

This argument did not carry any weight, as he was a member of the in-house 'Coronavirus Site Committee'. One of the responsibilities as committee member was to put up posters in the workplace detailing the steps to follow after exposure or suspected exposure to COVID and the symptoms to look out for.

The Labour Court held in *Eskort Limited v Stuurman Mogotsi and Others* (JR1644/20) [2021] ZALCJHB 53 on 28 March 2021 that Mogotsi's conduct was irresponsible, reckless, inconsiderate, 'nonchalant in

the extreme' and went as far as to state that '...even more perplexing is the reason he would go about the workplace mask-less and hugging fellow employees, in circumstances where he knew or ought to have known the consequences of his actions, especially after having become aware of the co-worker's results'.

There was no justifiable reason provided for placing co-workers, customers and family at risk and there was no remorse for being solely responsible for having co-employees placed in 'self-isolation'. This not only had an impact on production at the workplace, but also disrupted the lives of families of co-employees.



Self-isolation: What you need to know

Once you suspect that you might have been exposed to or are infected with the COVID-19 virus, you must self-isolate. It involves removing yourself from public places and the workplace and limiting contact with relatives, friends, colleagues, and public transport.

“ The term self-isolation, was introduced by President Cyril Ramaphosa in his very first national address on 23 March 2020. Since then, a number of regulations have been published, especially regarding the circumstances that will trigger mandatory self-isolation and the purpose thereof. ”

The Regulation on Health and Safety that was published on 28 April 2020 directed that employers must screen workers for symptoms of COVID-19. Workers with symptoms must be placed in isolation and arrangements made for their safe transport for a medical examination, testing or for self-isolation. In a media statement by Dr. Zwelini Mkhize on 17 July 2020, the reduced isolation period from 14 days to 10 days was confirmed.

Mandatory 10-day self-isolation remains in place

The Consolidated Directions on Occupational Health and Safety Measures in Certain Workplaces

was signed on 29 September 2020 and confirmed that the mandatory 10-day self-isolation, as announced in July 2020, was still in place.

Paragraph 6(4) of the directive provides that an employer may only allow an employee back at work without requesting viral testing if the worker completed the mandatory 10 days of self-isolation from the onset of the symptoms or from the date of achieving clinical stability or a medical evaluation confirmed fitness to work.

Mogotsi's conduct was grossly unacceptable

In light of the above, it should be quite clear that Mogotsi's disregard for legislation and directives to curb the pandemic was grossly unacceptable. In Mogotsi's instance, his defence for disregarding these safety measures and protocols was ignorance.

The evidence from the employer was, however, overwhelming in that he was fully aware of the safety measures. He was responsible for putting up posters, stipulating the workplace health protocols throughout the workplace.

COVID Sick leave benefit conversion negotiated to assist MISA members at RMI establishments

MISA recognises that many employees - and MISA members - do not have sufficient annual or sick leave available to cover for self-isolation when exposed or possibly exposed. The financial impact might be dire. To assist, MISA negotiated a COVID-19 sick leave benefit conversion with the Retail Motor Industry Organisation (RMI) to the benefit of MISA members employed RMI establishments. The COVID-19 sick leave benefit conversion took effect on 12 February 2021.

In terms of the COVID-19 sick leave benefit conversion, MISA members who do not have adequate sick leave days available and who are booked off as a result of COVID-19, for either quarantine or self-isolation purposes, will qualify for a 75% payment of their salary for the 10-day quarantine period.

Requirements

Further requirements are that MISA members must be a member of MISA for at least four consecutive weeks and a paid-up member of the Sick, Accident and Maternity Pay Fund (SAF) for at least thirteen consecutive weeks. Bear in mind that the SAF contributions are paid by the employer.

In claiming for this benefit, you must be in possession of a COVID-19 positive test result or a

medical certificate indicating that you have been booked off for COVID-19 quarantine purposes. Once your claim has been approved and paid, you must remain a member of MISA for at least 12 months and a SAF member, for whom your employer shall contribute, for at least 12 months after the approval of the application.

This benefit will not be considered for:

- Non-MISA SAF members.
- Claims prior 12 February 2021.
- Claims where the positive COVID-19 test results precede the period of sick leave applied for or was obtained after the approved sick period.
- MISA members with adequate sick leave days available or the sick leave was paid in full by the employer, or
- When a MISA member does not meet the required membership periods as set out above.

Conclusion

Do not make yourself guilty of grossly negligent behaviour by continuing work when you were exposed or suspect that you are infected with the COVID-19 virus. Self-Isolation is mandatory and failure to comply could lead to dismissal.



WHEN TOO MUCH POSITIVITY BECOMES NEGATIVE OR TOXIC

What is toxic positivity? It is the belief that no matter how dire or difficult a situation is, people should maintain a positive mindset. It's a "good vibes only" approach to life. We all know that having a positive outlook on life is good for our mental well-being, so how can that be wrong or bad for us?

By: Thandeka Phiri
National Training Manager, MISA

The problem is that life isn't always positive. We all deal with painful emotions and experiences. And those emotions, while often unpleasant and hard to deal with, are important and need to be felt and dealt with openly and honestly.

While there are benefits to being an optimist and engaging in positive thinking, toxic positivity instead rejects difficult emotions in favour of a cheerful, often falsely positive, facade.

Toxic positivity takes positive thinking to an overgeneralised extreme. This attitude doesn't just stress the importance of optimism, it minimises and denies any trace of human emotions that aren't strictly happy or positive.

Toxic positivity has become more prevalent during the COVID-19 pandemic, where many are encouraged to be positive regardless of situations faced or experienced. Apart from the tragedies experienced, as well as the fears and anxieties triggered by the pandemic, many are overwhelmed by feelings of isolation, financial burdens and balancing paid work with unpaid care work (including home-schooling children while working).

Toxic positivity invalidates hardships felt by many while creating a pressure to be productive, making people feel ashamed or inadequate for not taking advantage of the lockdown through starting a side hustle, being productive, learning a new foreign language, reorganising their homes or learning how to cook.

It is important to realise that not everyone copes with stress by getting busy. For many, these messages are harmful, leading to increased feelings of depression and anxiety.

Toxic positivity can take many forms

While facing job loss as a result of the pandemic, many have been encouraged to stay positive, and focus on the good things such as the fact that they still have their health.

Persons dealing with job loss are reminded that things could be worse and that they shouldn't dwell on what they have lost or cannot change, and that they would be back on their feet if they just stayed focused.

Friends or family may chastise you for expressing frustration, instead of listening to why you're upset. Commenting that you 'should look on the bright side' or 'be grateful for what you have' or 'that happiness is a choice'. Many who have experienced losses of loved ones may have been told that everything happens for a reason.

While such comments are often meant to be sympathetic and comforting, they can also be a way of avoiding someone else's pain or shutting down any expressions about the experiences they are going through. Many a time these expressions are made

with the intention of making one feel better rather than being malicious.

With toxic positivity, negative emotions are seen as inherently bad. Instead, positivity and happiness are compulsively pushed while authentic human emotional experiences are denied, minimised, or invalidated.

"The pressure to appear OK invalidates the range of emotions we all experience," says Carolyn Karoll, a psychotherapist. "It can give the impression that you are defective when you feel distress, which can be internalised in a core belief that you are inadequate or weak."

Avoidance strategy

Toxic positivity, at its core, is an avoidance strategy used to push away and invalidate any internal discomfort. But when you avoid your emotions, you actually cause more harm. Avoidance or suppression of emotional discomfort leads to increased anxiety, depression, disrupted sleep, increased substance abuse, and overall worsening of mental health.

Psychotherapist John-Paul Davies says rather than by-pass negative and difficult emotions, we need to give them a space. Avoiding such emotions can lead to mental health problems.

How to counter or deal with toxic positivity

How then can we counter or deal with toxic positivity and develop a healthier, more supportive approach? We can try to:

Avoid ignoring

Avoid ignoring or trying to suppress our genuine emotions.

Listen

Listen to and validate other people - even if they're sad and that makes us you uncomfortable.

No advice

Do not offer unsolicited advice.

No shaming

Don't shame anyone (including yourself) for their emotions.

It's normal

Remember that feeling unwell is completely normal, especially during times like these where we're all trying to process so many things at once.

Emotions aren't limited

You aren't limited to one emotion at a time. For instance, you can be frustrated and sad about how the pandemic is being handled, but also experience moments of joy when communicating with your loved ones.

Be realistic

Be realistic with any sort of timeline. It doesn't work to set an expiration date for being sad over the loss of a job, for example. Instead, opt for small, actionable steps that could make you feel better, and process things at your own pace.

Take a break

Take a break from social media if that would help.

It's OK not to be OK, especially right now as we deal with the effects of the COVID-19 pandemic - in fact, it is normal.

#MISACARES : MOTOR INDUSTRY CAREER EXPO

This year, the annual MISA Girl/Boy Child-at-Work Day took on a new format: we took a roadshow to the schools and by all accounts, this was a huge success.

Nine schools and ten motor industry employers participated in this event, which was supported by merSETA.

The focus was on Grade 11 learners, while Grade 10 and 12 learners also joined in.

"MISA has always distinguished itself from other unions in its active participation in youth and job development in the retail motor industry," says Martlé Keyter, MISA's CEO. "This is but one example of our extensive involvement in youth development to the benefit of not only the industry we serve, but the greater community and economy as well."



Thank you to our partners

Eastern Cape

Gqeberha (Port Elizabeth) : Nissan Eastern Cape
East London : BMW East London (Supertech)

Free State : Bloemfontein

Volvo Trucks
Bloemfontein Turbo Systems
JMC Technical Training

KwaZulu-Natal : Durban

Barloworld Ford Pinetown
Springfield Panel & Paint

Gauteng / Mpumalanga

Pretoria : Bidvest McCarthy Toyota Sinoville
Johannesburg : Honda West Rand
Secunda Toyota

Western Cape : Cape Town

Mercedes-Benz Culemborg

MISA ARRANGES JOB SHADOWING IN GQEBERHA

One of the best ways to see what a possible new career entails is to spend some time experiencing it. This is why job shadowing is such a powerful way to convince learners to make the motor industry their future career.

MISA recently partnered with Maritime Motors and Techno-Dent in Gqeberha to create opportunities for job shadowing.



It was very interesting and I really enjoyed it. This was a completely new experience. It was very special to me.
Job shadower at Techno-Dent

It was a dream come true. For the first time in my life, I felt like I was somewhere I really belong. It was amazing! I wish I could have been there longer. Thank you so, so much! It was awesome.
Job shadower at Maritime Motors





News from Aon

UNDERSTANDING INSURANCE TERMINOLOGY

When obtaining an insurance quote, it may seem like you're drowning in an alphabet soup of terminology, but once you understand the key terms and why they are so important, it all becomes a lot clearer. Aon provides an overview of some of the most common, and important insurance terms that you may encounter in your insurance dealings.

- **Insure for the retail value of the car** - Ideally, you want to be in a situation where your insurance can replace 'like for like' and avoid being paid out less than the value of your vehicle. Essentially, retail value is the price at which a car dealer will sell a vehicle to you. Market value is the average of the difference in price between retail value and its trade-in value, in other words what you could expect to receive from a dealer if you were to trade the vehicle in. Always ensure your vehicle at retail value.
- **The Average Formula** - If you are under-insured in the event of a loss, the insurer will assume that you have elected to carry a portion of the risk yourself. As a result, you may find yourself in a situation where you are paid partially for a loss at claims stage due to the average formula being applied. It means that if your property is under-insured by 40%, for example, then you may only be paid 60% of your claim, regardless of whether it is a partial or total loss.
- **Credit Shortfall Insurance** - An often, overlooked risk is that of a credit shortfall on a financed vehicle. This typically arises when a vehicle is written off in the first two years of signing a finance agreement to purchase a new car. Accrued interest on the loan within the first few years may very well mean that your insured value of your vehicle could actually be less than your outstanding debt to the bank. If you don't have credit shortfall cover to settle this amount, you will be liable for the shortfall between what's owed to the bank, and your insurance settlement which does not cover you for the interest.

- All Risks Cover – Household contents cover is usually applicable to items that stay within your home. As soon as an item is taken outside of your home such as jewellery smartphones, laptops, sports equipment, designer sunglasses or luggage, these items are no longer covered. It is pertinent to specify these items that may 'travel' with you under the 'All Risks' section of your household contents policy.
- Excess – In most insurance policies a claim is subject to the payment of an 'excess' (sometimes also called a 'deductible'), which refers to the first portion of the claim that you are responsible for. In the insurance world, it translates into you taking on a portion of the financial risk that affects your insurance premium whether it is a fixed amount or a percentage of the claim. Be very wary of taking the lowest premium as the bite is often in the high excess structure – in some instances this can be as much as 25% of the insured value or a fixed fee - whichever is the greater. If you consider a claim value of R100 000, the excess at 25% would be R25 000 – very few people have that kind of spare cash around to cover their excess payment. Taking excess waiver cover could also be an alternative option to consider. Make sure to discuss your excess options with your broker.
- Wear and tear - wear and tear and other maintenance related losses are one of the key reasons for a claim being rejected or the settlement being less than expected. Remember that insurance is there to cover sudden, unforeseen circumstances which result in loss and/or damage and does not cover damage as a result of negligence or wear and tear. Examples of wear and tear include rising damp around your house, water leaks that could lead to major structural issues on your home, making regular maintenance on your home, a must.
- Safety measures – Your insurance cover may be subject to certain security measures that need to be in place, such as burglar bars on all opening doors and windows, a tracking device on your vehicle or arming your alarm system when stepping out. The last one becomes a bit tricky during load shedding, making it crucial to confirm with your insurer whether your cover will be in place if a crime occurs during load shedding.





HELP US FIND THE 2021 MISA WOMAN OF THE YEAR

The annual MISA Women's Forum Woman of the Year award is one of the MISA Women's Forum's most important development initiatives.

As a campaigner for the equal rights of women in the retail motor industry, the MISA Women's Forum instituted this award in 2010 to pay homage to the role that women play in this important economic sector. But the award aims to do more than that: it is an important opportunity for the winner to grow and develop personally and professionally during her tenure as the MISA Woman of the Year.

We are not necessarily looking for the most senior, most successful woman in the retail motor industry, but we are looking for someone who has the potential to develop far beyond their current job title and role.

Another important criterion is also the difference the person makes in the lives of others, whether it's through community involvement, or by simply touching and enriching the lives of people at work or in the community.

We all know someone who is the sunshine in an office or dealership. She is someone who is selfless and has a passion for serving people of all walks of life; someone who makes a difference in your life. That is the kind of person that the MISA Women's Forum is looking to find and develop further through this annual award.

REGIONAL WINNERS PLAY IMPORTANT ROLE

The award is structured in such a way that a Regional Finalist is selected in each MISA region. They compete for the national title. There can only be one national winner, but the regional finalists also play an important role.

THE WINNER OF THE 2021 MISA WOMAN OF THE YEAR WINS AN OVERSEAS EDUCATIONAL TRIP IN 2022.

THE CLOSING DATE FOR NOMINATIONS IS 31 MAY 2021.



CLICK HERE TO DOWNLOAD THE NOMINATION FORM NOW.