



FOR PSA MEMBERS: **CAPE NATURE**

24-01-2025

What is happening at Cape Nature?

Labour Court Ruling on review application regarding Arbitration Award (WECT1862-21) concerning interpretation and application of collective agreement after unilateral reduction of members' vacation leave accrual from 30 days to 24 days

Members will recall that the above-mentioned matter was referred as an Interpretation and Application dispute to the CCMA. The employer's conduct in the reduction of leave days from 30 to 24 days per annum not only concerns the issue of leave, but also the long-service recognition agreement that was reached between the PSA and Cape Nature in 2012. The PSA's mandate was that members want their leave accrual to be returned 30 days leave per annum. At the arbitration hearing the Commissioner found in favour of Cape Nature, viz that the collective agreement regarding long-service recognition, which was concluded in 2012, was only valid for three years and thus lapsed in 2015. The PSA did not agree with the Commissioner's finding and the arbitration award was taken on review to the Labour Court. Case C340/2022 was heard on 1 February 2024. Judge Rabin-Naicker J ruled on 4 June 2024 that the Arbitration Award WECT1862-21 should be set aside and that the dispute be remitted to the CCMA before a different Commissioner. As per the judgement, the matter has been referred to the CCMA (case no WECT22150-24) and the date for the Conciliation Board is awaited. In the interim, the PSA and Cape Nature had discussions regarding a settlement to expedite this matter, as the initial case took more than four years to finalise. The PSA reiterated members' demand in relation to the reinstatement of the long-service recognition policy – with specific reference to those employees who completed ten years of service as well as the reimbursement of the leave days forfeited for the duration of this case from 1 July 2020 to date of conclusion of this case. Cape Nature's response to the PSA's demand was that the Board approved that the following proposal be put to the PSA, for consideration and distribution to members:

Current employees

- To reinstate six days leave to their annual leave to employees who have reached their 10th year of service with the Entity, and
- That the consideration of retrospective reinstatement of leave days, be cancelled owing to the financial constraints discussed, but the Entity will pay out a maximum of five annual leave days at the end of the financial year to staff who are unable to utilise their leave credits owing to operational requirements. **(IN SUMMARY: 30 days of annual leave for ten years or more service, Maximum five days of annual leave paid out at the end of financial year).**

Retired employees

The Entity appreciates employees' understanding of its financial status in that it is unable to make any cash payments to such individuals, however, it would like to propose that the Entity would offer a *Wild Card* (Western Cape Cluster) to each of the qualifying members for every year that they would have enjoyed the 30 days of annual leave as of 1 July 2020 *in lieu* of the said benefit. This card will be valid per couple per qualifying year.

Members are requested to indicate to the PSA Provincial Office in Cape Town via the shop stewards, Rodrick Albertus, Lucien Swartz, and Daseree Muller whether:

- Given the above, the proposal of the employer should be accepted. Implying that we will enter into a written agreement with Cape Nature as per the above grounds, and the case will be withdrawn from the CCMA and any future actions on the specific facts; or
- That PSA proceeds with the matter at the CCMA until the matter is arbitrated by a different Commissioner. The opinion is held that the matter should follow the normal route for dispute resolution as per the legal remedies. However, members are reminded that there is no guarantee that the new Commissioner will come to a different conclusion and find it in favour of members.

The entity's proposal, as reflected above, only provides for current employees from a current date and retirees. No provision is being made for those members who were penalised by Cape Nature's action to unilaterally change the long-service recognition agreement as contained in Wage Agreement 2012, dated 13 November 2012.

Members' responses should reach the shop stewards no later than **31 January 2025**.

Members will be informed of developments.

Reuben Maleka
GENERAL MANAGER