



**Jahni de Villiers**

DIRECTOR

071 603 3804

[jahni@labouramplified.co.za](mailto:jahni@labouramplified.co.za)

[www.labouramplified.co.za](http://www.labouramplified.co.za)



## **Ignore your workplace Covid-19 health and safety rules at your own peril**

One year on from South Africa's initial lockdown due to the global Covid-19 pandemic, it is safe to say that workplace health and safety measures have never been more important, visible and accessible.

While most employers and employees know and understand the risks involved with not being serious about workplace safety in respect of Covid-19, there are still situations where employees take unnecessary chances.

An example of such conduct was heard in the Labour Court recently. In this case, an employee in a meat processing facility went to work, despite being diagnosed with Covid-19 and while at work, disregarded the employer's rules regarding social distancing and mask-wearing. The employee eventually left work to self-isolate, and upon his return he was charged with a number of disciplinary offences relating to his conduct after being diagnosed with Covid-19.

The employee was found guilty of gross negligence, and dismissed. The employee referred the matter to the CCMA as an unfair dismissal. During arbitration, the commissioner held that the dismissal was substantively unfair, having regard for both the provisions of paragraph 96 of the CCMA Guidelines and the employer's own disciplinary guidelines which prescribed a final written warning for the offence of gross negligence, the employer, failed to justify the sanction of dismissal, and had thus deviated from its own disciplinary code and procedure.

The employer decided to refer the matter to the Labour Court for review. The Labour Court took a very different view, finding that the gross nature of the employee's conduct was such that a trust and working relationship between the employee, the employer, and fellow employees, could not be sustainable and that the dismissal was the appropriate sanction in the case. This is especially so since the employer submitted evidence that, other employees had been dismissed

for similar acts of misconduct, and where the employee had failed to appreciate, or even acknowledge the monumental harm, anxiety and strain he had caused on his co-employees and their immediate families, but also on the operations of the employer.

Ignoring workplace health and safety protocols relating to Covid-19 is reckless, irresponsible and endangers not only colleagues, but also their families. It is clear now that this conduct will also bring a swift end to your employment, so tread with care.