

How to deal with cannabis-related misconduct in the workplace

By [Jonathan Goldberg](#)

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When the possession of cannabis for personal use was legalised, many HR and workplace policy considerations arose. These were in terms of whether or not being under the influence of dagga at the workplace could be treated in the same way that alcohol was.



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The case of *Rankeng/Signature Cosmetics and Fragrance (Pty) Ltd (2020)* also reported at [2020] 10 BALR 1128 (CCMA) sheds light on this question.

The employee, a picker, was dismissed after he was found guilty of reporting for duty under the influence of dagga. He admitted that he had smoked a "zol" early that morning before leaving home but claimed that he was fit to perform his duties.

At the arbitration, the evidence which was led stated that the employer had allowed him to continue to work. The only evidence that the employer had about the employee's condition of being under the influence of the drug was that his eyes were inflamed. The Commissioner concluded this merited no more than a warning and the employee was reinstated on a final written warning.

This case proves again that the issue of marijuana - since the Constitutional Court case - is going to cause some industrial relations issues. This will include how employers deal with it and interpret their rights in terms of the Constitution. What is clear from this case is a progressive disciplinary approach is going to be needed where the person tests positive for being under the influence of marijuana.

That progressive discipline would allow the person an opportunity to rehabilitate and get such out of his urine or blood stream. What makes this even more complicated is the current Occupational Health and Safety Act, which put the obligation on the employer not to allow employees under the influence of drugs and alcohol into the workplace.

Interesting times ahead.

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