

Labour Court dismisses court case against Unisa brought by its five former employees

On 6 May 2022, the University of South Africa (Unisa), terminated the employment contracts of five employees, who also happened to be NEHAWU shop stewards, for serious misconduct in terms of the university employee disciplinary code and university ethics code.

Prior to the termination of their employment contracts, the university attempted on a number of occasions to reach out to the trade union in an attempt to find a solution to the unlawful conduct of the employees which included but not limited to, disruption of graduations and unlawful dispatching of a pepper spray, but they refused. As a result, on 19 April 2022, the university decided to put the employees on precautionary suspension pending the outcome of disciplinary processes.

The suspended employees decided to violate the conditions of their suspensions and committed further misconduct including but not limited to further disruptions of graduations, intimidation of staff members, arson, malicious damage to property and assault. NEHAWU subsequently decided to engage in an unlawful strike demanding the reinstatement of the dismissed employees, while at the same time they approached the Labour Court to challenge the university's decision to terminate the five former employees.

The Labour Court on Thursday, 26 May 2022, found no merits in NEHAWU's application and dismissed it. The Labour Court found that the applicants failed to establish the court's jurisdiction. Whilst noting and respecting this outcome, Unisa Management wishes to reaffirm its stance that it is not against NEHAWU or any labour union operating within the university. The Management is on record as having protected the rights of labour to organise, protest and agitate for the rights and issues affecting workers. NEHAWU, has been picketing since 3 November 2021 and the university has not even once interfered with the pickets. However, when the industrial action took a violent turn and violated laws and applicable policies, the university Management took steps to protect life and property in line with legal obligations.

Once more, the Management reiterates that disruptions of academic programmes are anti-education and undermine the development agenda of South Africa and Africa. All industrial actions must be within the parameters of the law, and so should their resolution to which Management is committed. To this end, the Management met with the National Office Bearers of NEHAWU on Tuesday, 24 May 2022 in a bid to find an amicable solution. The negotiations are continuing.

Unisa is an important public institution in the imagination and lives of the people of Africa. The Management hopes that NEHAWU will reconsider its violent and disruptive stance. Meanwhile, the university has put measures in place to ensure business continuity and the protection of the academic programme. All workers are encouraged to continue with their important work of serving the public.

Management notes and welcomes the statement of affirmation from the Senate university as issued on Friday, 27 May 2022.