

# Demanding remote workers to return to office? Why this direction must be reasonable

By [Amandla Makhongwana, Layla Shah and Thobeka Zondi](#) 17 Jun 2025

Since the Covid-19 pandemic, many employees whose duties allow for it, continue to work from home either on a permanent or hybrid basis. However, some employers have since taken the decision to terminate such arrangements, insisting that their employees return to the office (RTO).



Image source: [EKATERINA BOLOVTSOVA](#) from [Pexels](#)

On 21 May 2025, the Labour Court issued a judgment in the matter between *Medici Energy (Pty) Ltd v Bennet NO and Others [2025]*, which considered the fairness of an employee's dismissal for failing to comply with the employer's return to office direction.

The judgment confirms an important principle that employers ought to bear in mind when considering their RTO instructions – such instructions must be reasonable.

## Background to the instruction

Desiree Roux was employed as a sales executive by Medici Energy. During the Covid-19 pandemic and for over two years, there was an arrangement that allowed Roux to work remotely from Paarl, for reasons relating to her son's autoimmune disease. On Friday, 10 June 2022, ostensibly due to a decline in Covid-19 cases, Medici Energy required that Roux report to the company's Cape Town office by Monday, 13 June 2022. She did not do so.

She was dismissed on 28 July 2022, following a disciplinary inquiry into allegations of gross insubordination relating to her failure to follow a lawful and reasonable instruction to cease working from home and to return to the office.

Roux challenged the fairness of her dismissal, and the Commission for Conciliation, Mediation and Arbitration (CCMA) agreed that her dismissal was both substantively and procedurally unfair. Roux was awarded compensation equivalent to eight months' salary.

Aggrieved by the decision of the CCMA, Medici Energy instituted a review application to set aside the arbitration award. The review application was unopposed.

The Labour Court considered whether the commissioner had committed any reviewable irregularities and arrived at an unreasonable outcome. Ultimately, it found that the conclusion reached by the commissioner both substantive and procedural fairness did not warrant any interference as it fell within the bounds of reasonableness.



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## Retaliation was the employer's downfall

The evidence revealed that Roux had intended to raise a grievance against two managers. After her first request for the company's grievance forms was ignored, she sent another request a day before being instructed to report to the office for work.

The commissioner found that, while the instruction from Medici Energy was lawful, it was unreasonable. There was no evidence to show that the work-from-home arrangement had become untenable for the employer; the instruction appeared to be in retaliation against the grievance Roux sought to raise. Further, the arrangement was summarily terminated without any consideration for Roux's personal circumstances.

The Labour Court agreed with the commissioner noting, among other things, that Roux was expected to return to the office on no notice and without any substantiated and pressing reason for the termination of a longstanding agreement for Roux to work from home. Further, the Labour Court found that the timing between Roux's request for the formal grievance documentation and the instruction was damning.

Moreover, the Labour Court found that Medici Energy had pre-determined Roux's dismissal, as borne out the instruction to its labour consultants to 'terminate the working relationship' with immediate effect. The main contention in the notice of disciplinary enquiry was that Roux was causing trouble with colleagues and management – which had nothing to do with the work-from-home arrangement and/or failure to comply with the instruction to report to the office.

Therefore, the Labour Court found that, on the full conspectus of the evidence before the commissioner, the outcome that the dismissal was substantively unfair was one that a reasonable decision-maker could reach.

[Read the full judgment here](#)

## Procedural defects

On the procedural front, Medici Energy had refused to give Roux the details and/or information relating to a second charge of misconduct and had prevented her from electing a representative of her choice, claiming that he was a potential witness in the matter. Consequently, the commissioner found that the dismissal was also procedurally unfair. The Labour Court held that these findings were similarly reasonable.



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## Lessons for employers

An undeniable legacy of the Covid-19 pandemic is that remote working and hybrid-working models have become more prevalent, and fortified as conversations around agile-working, work-life balance and mental health become increasingly important.

The balance between employees' interests in remote or hybrid-working as well as the employers' operational requirements is one that requires ongoing engagement. This becomes more relevant when the employer contemplates changing such arrangements to revert to full-time office attendance.

RTO instructions must not only be reasonable but should also follow a process of consultation. This will ensure that employees have the benefit of interrogating the reasons for the proposed change in working arrangements and properly understand the employer's position and may mitigate the risk of unfairness claims.

In certain circumstances, an RTO instruction may amount to a unilateral change in terms and conditions of employment, and employees' consent may be needed.

Given the tricky terrain, employers would do well to take legal advice before making changes.

### ABOUT THE AUTHOR

Arrandla Makhongwana, Senior Associate, Layla Shah, Associate, and Thobeka Zondi, Candidate Legal Practitioner, Bowmans

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