Dispute

1. Introduction

Dispute, similar to Disciplinary Advanced, allows users and administrators to record disputes that the employee make against the employer or a specific individual working for the employer.

Disputes are a natural part of the disciplinary process. Should an employee dispute his/her disciplinary record, it can be recorded on the Signify Software HR Platform. Disputes are lodged against a specific disciplinary action but can be recorded in cases of historical data, separate from the disciplinary actions already loaded onto the system.

Image not found or type unknown

2. Dispute

Navigation

To navigate to the section, select Manage Employees then search for the employee. From there, select action then view/edit. Navigate to the employee relations item | Disciplinary Advanced | Dispute

When an employee disputes the outcome of a Disciplinary Process, the record should be loaded from the “Disciplinary Advanced” window. Click on “Dispute” to link the dispute to a IR Category.

Disputes can also be recorded on its own. That means the dispute does not have an ER Category as reference. This can be done by clicking on the “Dispute” button when the “Manage Employees” window have loaded

Image not found or type unknown

3. Referral

Once the Dispute button is pressed, the system will load the “Referral Page”. It allows users to store all the details associated with disputes/referrals.

Image not found or type unknown

- Dispute Against: This record who the dispute is lodged against. Dispute Against Company should be selected when an employee/individual lodged a dispute against the company. Dispute against Individual should be selected when a dispute is lodged against a specific individual within the organisation. For example, this could be for harassment cases or bullying by a manager.
- Individual’s Details: If dispute against individual is selected, the system will request the “Individual’s Details” – Click on the hand icon to open the Employee Search window. From this window select the correct individual.
- Dispute Reason: The “Dispute Reason” is the motivation behind the employee’s dispute.
    - “Dispute Reasons” are manged by administrators.
- Dispute Description: The “Dispute Description” allows the user to record details regarding the dispute.
- Grounds for Referral: The “Grounds for referral” are either “Substantive Grounds”, “Procedural Grounds”, or both.
    - Substantive Grounds should be selected when the Dispute Reason relates to Fairness – remember that in these cases, the penalty must fit the crime.
    - Procedural Grounds should be selected when the correct procedure was not selected – these include both the company policies and procedures as well as the procedures stipulated by the Labour Relations Act.
- Referral Date: The “Referral Date” is the date on which the referral was made, in other words, it is the date upon which the dispute was lodged. The dispute can be laid against the company or an individual at the CCMA or the Labour Court.
- Date Received: The “Date Received” and “Time Received” is the exact date and time that the organisation became aware of the referral.
- Details: The “Details of person who received the application” can be selected by on the hand icon and opening the Employee Search window. From this window, the correct individual can be selected. Click on the tick box icon to select an external individual such as a company representative or external labour consultant.
- Con-Arb: If Con-Arb is granted, it can be indicated by selecting the correct option from the dropdown. If Con-Arb is granted, it means that after Conciliation the case may proceed to arbitration directly after the session. As there will be no warning and no preparation, the “Arbitration Notification” and “Pre-Arbitration” tabs are not made available.

Image not found or type unknown

4. Conciliation

Navigation

On the portal | Manage Employees | Action | View/edit | Employee Relations | Disciplinary Advanced | Dispute | Select IR Category | Conciliation

The conciliation page allows the user to record the details of any conciliation attempt, including the first step in a CCMA case.

- Date: Click on the calendar icon to record the date on which the “Notification of Set-Down Date” was received.
- Date: Click on the calendar icon to record the “Actual Set-down Date”. If the actual set down date is received in less than 14 days of the received notification, the company may request postponement. A separate button will be loaded that gives the user access to load the postponement details.
- Request Postponement: If the “Request Postponement” button is clicked, a new window will open that allows the user to load the details of the postponement.
    - Once the request postponement details have been loaded, it will be recorded on the Conciliation Page.
    - These details cannot be amended after it has been saved.

Image not found or type unknown

- Case Number: Record the case number e.g. CCMA20170725/10589.
- Conciliation Summary: The user needs to record a brief description of the events at the set-down.
- Resolved: If the matter is resolved and both parties are satisfied with the outcome of the Conciliation session, click on the tick box icon next to “Resolved”. This will open the “Conciliation Outcome” Dropdown
- Clear Conciliation: To clear the page and restart with the process, click on “Clear Conciliation”. Note this will also clear all work done on previous occasions.

The process forward is determined by the options selected on the Conciliation page. If the “Resolved” button is ticked, the system will save the event and load the “Labour Court” tab in addition to the other tabs already loaded. If “Resolved” is not indicated, the system will load the Arbitration Notification, Pre-Arbitration, Legal Payments, and Labour Court pages in addition to the other tabs already loaded.

These Tabs are discussed once Conciliation Outcome and Postponement Details have been discussed.

4.1. Conciliation Outcome

Conciliation Outcome popup window allows the user to select different outcomes that resulted from the Conciliation sitting. These are “Re-Instatement”, “Re-Employment”, “Re-instatement with back pay”, “Settlement”, and “Withdrawal”.

- Re-Instatement: This is the default option and indicates that an employee is to be re-appointed in any exactly similar position with the same responsibilities, conditions and privileges that was associated with it– if this option is chosen, the system requires the user to complete the “Outcome Date” and indicate if there is “Retrospective Back Pay”.
- Outcome Date: Click on the calendar icon to record the day on which the outcome was decided upon.
- Retrospective Back Pay: If agreed, but not required for the employee to receive payment for the period from suspension until re-instatement, it should be indicated by clicking on the tick box icon next to Retrospective Back Pay.
- Re-Employment: If an employee is to be appointed in his former position, this option should be selected and the user will be requested to provide the “Re-Employment Date” in addition to the information required above.
- Re-employment Date: Click on the calendar icon to record the date on which the employee is to return to work.
- Re-Instatement with back pay: If it is decided by the commissioner that the employee should receive payment for the period from suspension until re-instatement, the amount should be indicated in addition to the information required by “Outcome Date’ and the “Retrospective Back Pay”.
- Outcome Value: The Outcome Value should be a numeric value; therefore, it is not allowed to indicate currency such as Rand “R”.
- Settlement: If the employee and employer decide to settle the matter, it can be recorded by selecting “Settlement”. This will load “Outcome Value” and “Other Settlement”.
    - Outcome Value: If there is an agreement on a financial settlement, the amount can be recorded here. The Outcome Value should be a numeric value; therefore, it is not allowed to indicate currency such as Rand “R”.
    - Other Settlement: If there are other conditions linked to the settlement, they can be indicated in this tick box icon. These can include a different reason for employment termination, rules about reference provision etc.
- Withdrawal: If the employee withdraws his/her case against the employer, it can be indicated by selecting this option. It will still require the user to provide the outcome date.

4.2. Postponement Details

If postponement was requested by either party, the details of the request can be recorded on this page.

- Previous Set-down Date:
- The “Previous Set-down Date” will be pre-loaded with the page.
- New Set-down Date:
- Click on the calendar icon to record the “New Set-down Date”.
- Requested By:
- The individual who submitted the postponement’s details should be recorded here.
- Granted:
- Click on the tick box icon next to “Granted” if postponement was granted.
- Postponement Type:
- The Postponement Type relates to the party that requested postponement. If it was the organisation that selected postponement, then select “Company”, if it was the employee, select “individual”, there is also an option for “other” should that be the case.
- Reason for Postponement:
- The reason for postponement is the same reason that was provided to the commissioner.
- Parties Notified:
- Here the user can list the individuals who were notified.

Image not found or type unknown

5. Labour Court

Navigation

On the portal | Manage Employees | Action | View/edit | Employee Relations | Disciplinary Advanced | Dispute | Select IR Category | Labour Court

It is important to note that the Labour Court Tab moves position based on the Conciliation Outcome.

If a CCMA case is indicated as resolved, it can still be referred directly to the Labour Court. Major Labour cases such as mass retrenchments are also referred directly to the Labour Court without going through Mediation and Arbitration. In such cases, this tab remains available to record the events.

- Referred to Labour Court: If a case is referred to the labour court, the first step is to indicate it by clicking on the tick box icon next to “Referred to Labour Court”.

- Application for Rescission: If there was an application for Rescission by either party (i.e. the employer or the employee disagreed with a previous judgement and applied for Rescission of award or outcome) it can be indicated by clicking on the tick box icon next to the “Application for Rescission”.
- Referred by: The party that first approached the Labour Court is the Referred by party. Click on the dropdown to select either the “Applicant”, “Employer” or “Third Party”.
- Date Referred: The date referred is the date upon which the Labour Court issued a summons. Click on the calendar icon to select the “Date Referred”.

Image not found or type unknown

- CCMA Case: Add the CCMA Case number in the provided textbox – the case number will be on any document from the CCMA.
- Initiated Review: Indicate who initiated a review of the CCMA case by clicking on the tick box icon next to either Company or Applicant.
- Representative: The employer’s representative (Legal Aid, Layer, Legal Assistant etc.) can be recorded in this textbox.
- Name of Judge: The judge assigned to the case can be recorded in this textbox.
- Court Date 1: Click on the calendar icon to select the first court date.
- Court Date 2: Click on the calendar icon to select the second court date.
- Court Date 3: Click on the calendar icon to select the third court date.
- Court Date 4: Click on the calendar icon to select the fourth court date.
- Outcome in favour of: The text dropdown allows for two options – Company and Applicant.
  - Company: Complete the “Outcome Details” to finish the process.
  - Applicant: If judgement was made in favour of the applicant (or the employee) the case has been lost and more details need to be recorded. These are the “Reason for case lost”, the “Conditions of Ruling” and “Outcome Details”. Each textbox should be completed with the information provided by the Labour Court.
- Outcome Details: Use the text box to record the minutes of the judgement.
- Clear Labour Court: To clear the page and restart with the process, click on “Clear Labour Court”. Note this will also clear all work done on a previous occasion.

Image not found or type unknown

6. Arbitration Notification

Navigation

On the portal | Manage Employees | Action | View/edit | Employee Relations | Disciplinary Advanced | Dispute | Select IR Category | Arbitration Notification

Should the Dispute not need to approach the Labour Court and if there is a possibility that it can be resolved in the CCMA, then the “Arbitration Notification”, “Pre-Arbitration” and “Arbitration” tabs should be used.

Arbitration Notification is the first step in the Arbitration Process. Arbitration can be requested by either party.

- Request Arbitration: If the employer opts for Arbitration, as opposed to the employee, it can be indicated by clicking on the tick box icon.
- Date of Application: The date upon which arbitration was requested can be added by clicking on the calendar icon and selecting the date.
- Date Received: The date upon which arbitration was granted can be added by clicking on the calendar icon and selecting the date.
- Rescission Requested / Outcome: If an outcome has been awarded during Conciliation, the award can be challenged. The outcome of the challenge should be documented by clicking on the dropdown and selecting “Granted” for a successful application or “Refused” if the application was unsuccessful.
- Rescission Date: The date of the Rescission of award was granted should be added by clicking on the calendar icon and selecting the date.
- Con-arb Date: If Con-arb was granted based on the Rescission of Award, the new date can be added by clicking on the calendar icon and selecting the date.
- Pre-arbitration Requested: If the Rescission of Award was successful, Pre-Arbitration can be requested and indicated by clicking on the tick box icon.

Image not found or type unknown

7. Pre-Arbitration

Navigation

On the portal | Manage Employees | Action | View/edit | Employee Relations | Disciplinary Advanced | Dispute | Select IR Category | Pre-Arbitration

If pre-arbitration was requested and granted, the details of the Pre-Arbitration Session can be recorded on this tab.

- Date Requested: The date when Pre-Arbitration was requested at the CCMA can be recorded by clicking on the calendar icon and selecting the date.
- Actual Pre-Arbitration Date: The date of the Pre-Arbitration session can be recorded by clicking on the calendar icon and selecting the date.

- Pre-Arbitration Requested by: The name of the individual who requested or proposed Pre-Arbitration should be recorded in the textbox.
- Reason for Pre-Arbitration: The reason for Pre-Arbitration will be on the Notice of Hearing from the CCMA or in the request to the CCMA.
- Parties Notified: This textbox allows the user to list all the parties that were notified.

Image not found or type unknown

- Granted: Use the tick box icon to indicate that Pre-Arbitration was granted by the CCMA.
- Venue: The name of the court and room or the name of the place where the session was held can be recorded here.
- Date of Event: The date that the Pre-Arbitration hearing took place can be recorded by clicking on the calendar icon and selecting the date.

Image not found or type unknown

- Procedural issues: Any procedural matters that were raised during the session should be recorded in the textbox provided.
- Substantive Issues: If there were questions raised relating to fairness (i.e. substantive issues), these should be recorded in the textbox provided.
- Other Issues: If there were any unforeseen matters raised during the Pre-Arbitration Session, they should be recorded here.

Image not found or type unknown

- HR Business Partner Source – Internal: The employer’s representative should be recorded in this section – an internal HR Business Partner (HRBP) can be selected by clicking on the tick box icon next internal.
  - The name of the HRBP can be selected by clicking on the hand icon next to name.
  - The position can be typed in the Position Space provided.
  - Their contact number should also be recorded in the event that they need to be contacted again.
- HR Business Partner Source – External: If an external consultant was used during the process, their details can also be recorded by clicking on the “External” tick box icon.
  - Their Name, Surname, Position and Contact number can be provided in the textboxes.
- Pre-Arbitration Resolved: If the Pre-Arbitration session was successful and a satisfactory resolution was found, the “Pre-Arbitration Resolved” button should be ticked.
  - This will open the “Outcome Window”.
- Request Postponement: Click on “Request Postponement” to open the “Postponement Detail” window.

Image not found or type unknown

8. Arbitration

Navigation

On the portal | Manage Employees | Action | View/edit | Employee Relations | Disciplinary Advanced | Dispute | Select IR Category | Arbitration

If the disciplinary process went as far as Arbitration, then the details of the hearing can be recorded on this page.

- Notification Received of Set down Date: Click on the calendar icon to record when the notice was received.
- Venue: The physical address can be added in the “Venue” textbox.
- Date of event: Click on the calendar icon to record when the arbitration session was held.
- Assigned Commissioner: The commissioner’s details should be recorded on this page. The system allows users to record both internal and external commissioners to differentiate between internal arbitration attempts and arbitration that was attempted through the CCMA. For an external commissioner, click on the “External” tick box icon to load the required details include the below.
    - The commissioner’s full name and surname.
    - The commissioner’s email address.
    - The commissioner’s contact number.
- If the Commissioner is already loaded onto the system, his/her details can be loaded by clicking on the hand icon and selecting the correct individual form the provided list. The system will further provide a text box where the commissioner’s contact details can be stored.
- Assign HR business partner to attend to matter: The HRBP’s details should be recorded on this page. The system allows users to record both internal and external HRBP’s. For an external HRBP, click on the “External” tick box icon to load the required details include the below.
    - The HRBP’s full name and surname.
    - The HRBP’s email address.
    - The HRBP’s contact number.
- If the HRBP is already loaded onto the system, his/her details can be loaded by clicking on the hand icon and selecting the correct individual form the provided list. The system will still provide a space to record the commissioner’s contact number.
- Actual Set-Down Date: Click on the calendar icon to record the date of the arbitration hearing.

- Request Postponement: If the “Request Postponement” button is clicked, a popup window will load that allows the user to load the details of the postponement request. The Postponement Detail Popup window have already been discussed earlier.
- Arbitration Outcome: The outcome and decisions made during the Arbitration Hearing should be recorded in this tab.
- Outcome: Select an outcome from the pre-defined outcomes Value:

If there is a settlement amount or if the Arbitration Hearing concludes that there are monies owing, then the amount can be recorded in this tab. The Outcome Value should be a numeric value; therefore, it is not allowed to indicate currency such as Rand “R”.

- Outcome Date: The date upon which the Arbitration Hearing was concluded and the outcome provided.
- Decision Upheld: If the original Conciliation attempt decision was upheld (i.e. the Arbitration hearing concludes that the outcome of the conciliation hearing should remain the same) then the tick box icon should be ticked.
- Case Postponement Reason: If the hearing was postponed at any time before the outcome was made, it can be indicated by ticking on one of the tick box icons.
    - Date Postponed: If either party requested a change in date prior to the start of the hearing, and it is decided during the hearing to change the date, this option should be selected. The calendar icon will appear and allow the user to record the new outcome date.
    - Company Request: If the employer requests postponement during the hearing and it is granted, this option should be used.
    - Applicant Request: If the employee requests postponement during the hearing and it is granted, this option should be used.
    - Commissioner Instruction: If the commissioner decides that the hearing should be postponed for any reason what so ever. A text box will appear which allows the user to record the Commissioner’s Instructions.
- No Cost awarded: If the hearing concludes without any compensation awarded to the employee, this tick box icon should be ticked.

Image not found or type unknown

9. Legal Payments

Navigation

On the portal | Manage Employees | Action | View/edit | Employee Relations | Disciplinary Advanced | Dispute | Select IR Category | Legal Payments

At any point in time the cost of Legal Advice can be recorded by the system. To record a payment made to a legal representative or for legal advice, click on the “Add” button. This will load a pop-up screen where the details of the legal costs can be captured. The pop-up screen is called the Legal Payment Detail Page.

If the “Back to List” button is clicked on, the system will close the page without saving and return to the “Disciplinary Advanced” window.

Once all of the Legal Representative’s details have been loaded, a summary table will load on the page.

If the summary record was loaded incorrectly, it can be deleted by clicking on the “Delete” tick box icon and then on the “Delete” button.

To edit a record, click anywhere on the grey area of the record. This will open the Legal Payments Detail Page where amendments can be made.

Image not found or type unknown

9.1. Legal Payment Detail Page

On the Legal Payment Detail page, the below information can be captured.

- The Legal Representative Name: The Legal Representative can be selected by clicking on the hand icon. This will open a third window with a list with the names of all the Legal Representatives.
- External: If the legal representative is not loaded onto the system, their details can still be captured by clicking on the “External” tick box icon. This will provide the user with additional fields to load the information.
    - Legal Representative Name: The full name and surname of the legal representative can be added here.
- Email: The legal representative’s work email should be provided here.
- Description of Service: Here a report of the services rendered by a legal representative can be written.
- Amount: This window allows the user to load the total amount of the invoice received from the Legal Representative.
- Invoice Number: The invoice number provided by the legal representative should be provided here.
- Date of Invoice: Click on the calendar icon to record the date on the invoice.
- Date of Payment: Click on the calendar icon to record the date on which payment was made to the legal representative.

If the Legal Payments window was opened to Edit the details, a “Delete” button will also be made available. Click on this button to delete the record.

9.2. Search

The Search function is a quick way to find any legal payments associated with this record. It is readily available when the Legal Payments tab is loaded.

- Search: This is an open field and will look for any key words or parts thereof that can be found in the summary table. This function will look for key words in “Advisor Name” “Description of Service” and “Invoice Number”.
- Amount Between: This option allows users to specify a minimum and maximum amount paid to a legal advisor. The system will return all records with payments that fall within the criteria. Payments that match the exact amount specified, or that fall within the payment range will be returned. Note that “The Amount Between” value should be a numeric value; therefore, it is not allowed to indicate currency such as Rand “R”.
- Payment Date Between: To find a record on a specific date, click on the calendar icons and select the date range. Records that were made on the day’s specified, or between the two dates will be returned.
- Click on “Search” to search for the specified record or “Clear” to clear the fields and start over.

Image not found or type unknown

10. Documents

Navigation

On the portal | Manage Employees | Action | View/edit | Employee Relations | Disciplinary Advanced | Dispute | Select IR Category | Documents

Documents that are associated with the dispute can be loaded on this tab. These include Notices, Requests, Court Documents, or any other document that relates to the dispute.

11. Conclusion

Dispute and Disciplinary Advanced account for all off the disciplinary records. Together they enable managers to keep track of the activates that are associated with poor performance.

Revision #1
Created 27 March 2021 13:33:27 by Lizette Lotter
Updated 27 March 2021 13:33:43 by Lizette Lotter