

May employees picket in support of a protected strike?

In terms of section 69 of the Labour Relations Act 66 of 1995 (LRA), only a registered trade union has the right to authorise a picket (as provided for by the LRA) by its members and supporters for purposes of demonstrating peacefully:

- In support of any protected strike; or
- In opposition to any lock-out.

Where can an authorised picket be held?

An authorised picket may be held:

- a) in any place to which the public has access, but outside the premises of the employer; or
- b) inside the premises of an employer, with the permission of the employer.

An employer may not unreasonably refuse permission for lawfully striking employees to picket inside its premises.

Picketing rules

Picketing rules regulate the conduct of those engaged in the picket and set out the details of where and when the picket may be held, who will be appointed to control the picket, etc.

Where picketing rules have not been established, the parties may either request the CCMA to help them to reach an agreement on the picketing rules, or in the absence of such rules or application, the CCMA must establish the picketing rules.

Where the CCMA establishes the picketing rules, the rules may also provide for picketing in a place which is owned or controlled by a person who is not the employer, provided that such person has had an opportunity to make representation to the conciliator before the rules are determined.

Urgent application for picketing rules

The LRA recognises two situations where a registered trade union may make an urgent and direct application to the CCMA (not a bargaining council) to determine picketing rules. These are as follows:

- a) where the employer has not complied with an application to restore terms and conditions of employment that the trade union alleges have been changed unilaterally (section 64(4) of the LRA); and
- b) where the employer has given notice of an intention to commence or has already commenced an unprotected lock-out.

What if there is a dispute about the right to picket or the content of picketing rules

A dispute about any breach of the right to picket or that the content of the picketing rules is not being

followed, may be referred to the CCMA for conciliation. If the dispute remains unresolved, it may be referred to the Labour Court.

