DISCIPLINARY HEARING CHECKLIST

A dismissal or sanction is fair only if there is both a fair reason and a fair procedure. Work through the stages below in order and keep this sheet with the disciplinary file.

EMPLOYEE _____ EMPLOYEE NUMBER _____ HEARING DATE _____

1. BEFORE THE HEARING

- ☐ Investigate first: statements, documents, footage. Date your notes.
- ☐ Suspend before the hearing only for a fair reason, such as a reasonable belief of serious misconduct and a risk of interference with the investigation or witnesses. Precautionary, not punitive; on full pay until the proceedings conclude; as short as possible; confirmed in writing.
- ☐ Appoint a chair who was not involved in the incident or the investigation.
- ☐ Draft each charge in plain words: what happened, when, where, and the rule or standard broken.
- ☐ Serve a written notice, in a form and language the employee understands, with the charges, the date, time and venue, and the employee's rights.
- ☐ Allow the employee reasonable time to prepare.

2. RIGHTS TO STATE IN THE NOTICE

- ☐ Assistance by a fellow employee or a trade union representative
- ☐ An interpreter, if needed
- ☐ To state their case, call witnesses and question the employer's witnesses

3. AT THE HEARING

- ☐ Keep minutes or a recording.
- ☐ Open by explaining the charges and the procedure. The employer presents its evidence, then the employee has a full opportunity to respond, call witnesses and question the employer's witnesses.
- ☐ Decide on a balance of probabilities: did the employee break a rule; was the rule valid and reasonable; did the employee know, or could they reasonably be expected to know, of it; has it been applied consistently?
- ☐ Hear mitigation before deciding the sanction: length of service, previous warnings, the circumstances.

4. AFTER THE HEARING

- ☐ Choose a sanction proportionate to the misconduct, taking mitigation into account, and consistent with similar cases.
- ☐ Give the outcome in writing, with reasons.
- ☐ If the outcome is dismissal, inform the employee in writing of the right to refer the dispute to the CCMA or the relevant bargaining council within 30 days of the date of dismissal.

General information, not legal advice. Every case turns on its own facts. Reference: Code of Good Practice: Dismissal.

Need it prepared for your matter? We reply within one business day. WWW.WILLAWINC.CO.ZA