

# End-of-year events - do we have a right to party?

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There is no requirement in any South African labour legislation, including the Labour Relations Act, 66 of 1995 and the Basic Conditions of Employment Act, 75 of 1997, that an employer must host a Christmas party or provide an end-of-year function for employees.



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The only other source of such an entitlement could be the employees' contracts of employment or letters of appointment, or a policy which refers to a Christmas party or function being held each year as a right on the part of the employees. It would be unlikely for a contractual provision or entitlement to be contractually stated.

Accordingly, provided that no clear contractual right to a Christmas party or year-end function exists in any of the above mentioned documents, employees cannot compel or require the employer to provide them with a Christmas party as a term and condition of employment.

At most, the tradition or practice of hosting such a party could be seen as a work practice. However, recent case law from the Labour Court indicates that it is always within the discretion of the employer to change work practices as it sees fit and at its prerogative, provided that the issue at hand has been consulted on with the affected employees.

If employees are upset about not having an office party thrown for them, there is very little that could be done.

The CCMA has limited jurisdiction to entertain a dispute of this nature as it generally only adjudicates disputes about unfair dismissals and unfair labour practices. Although a group of employees or union could demand an office party, and could refer a dispute as a matter of mutual interest about this demand, this process is usually used by employees to obtain the right to strike to try and compel the employer to accede to their demand.

If an employer usually holds a party for staff but will now not be able to do so, it should be open with its employees, and indicate that finances or other relevant circumstances mitigate against the holding of a party, and that for this reason it wishes to do away with a Christmas party. Even if the employees do not agree or feel aggrieved, the employer would be able to take this decision by itself.

If a party is held, staff must ensure that they continue to conduct themselves appropriately. Even if the employer provides alcohol, becoming drunk at the office party would still entitle the employer to discipline employees, and any other inappropriate conduct would still be actionable by the employer. Even if the party takes place outside of office hours and off premises, the event is still one organized by the employer and involves colleagues and co-workers; as such, any conduct at the party can have an impact on the ongoing relationship. As a specific example, an inordinate number of cases of sexual harassment are reported in South African legal digests, arising out of incidents that occur at Christmas parties.

The forum of an office party, although a welcome opportunity to socialize and have fun with colleagues, is still a work event and the usual boundaries of respectable interactions with co-workers continue to apply.

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