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Closing statement disciplinary hearing examples

CALL US: 012 644 4300 Home • Articles • Final arguments in a disciplinary hearing/arbitration Thursday | 02 May | 2019 What should I focus on in preparation for final arguments in a disciplinary hearing/arbitration? Closing arguments are crucial to confirm your version and at the same time refute the version of your opponent. The main purpose of closing arguments is to sensibly summarise your matter by focusing on all the facts that were proven in your favour during the hearing/arbitration by confirming the facts. Your closing arguments also serves as a sensible instrument to point out the opposition's weaknesses in their matter/evidence by focusing on aspects that weakens the credibility of the opposition's evidence. The following points must be considered when preparing your closing arguments: Clearing all uncertainties regarding your version, thus persuading the presiding officer to reach the conclusion that your version is more likely the truth than that of the opponents; All concessions received from the opposing party's testimony during your cross examination, that cause the evidence to appear unreliable/biased, must be pointed out. Points of argument in the form of concessions must be completed and explained to the presiding officer; The closing arguments are not merely a summary of the facts, but rather comments on the facts so as to eliminate all uncertainties; The testimony of the witness that you have called to give evidence in your favour, that can determine the outcome of the evidence. When you criticise a witness in terms of dishonesty/misleading you should rather evoke a feeling of disappointment in the witness than a feeling of anger. The presentation of your closing arguments can further be divided into the following two points: Legislation/court rulings/policies You need to make the presiding officer aware of legislation/court rulings/policies that apply to the facts of your case without focusing on the information that is regarded as general practice. Focus on the legislation/court rulings/policies that aren't regarded as general practice, but rather an exception to the rule. Start by pointing out the facts that are not contested, for which there are strong evidence. Undisputed facts cannot simply be listed; these should be used to refresh the presiding officer's memory before he or she delivers their ruling. The disputed facts are then discussed by discussing all the opposition's evidence separately, and by focusing on the weaknesses of the opposition's evidence. Here you can once again draw the presiding officer's attention to the concession made by the opposition's evidence that influences their credibility by referring specifically to contradictions, inconsistencies, insecurities, improbabilities, prejudices and mistrust. When both parties have completed the presentation of their cases, an opportunity is afforded to deliver closing arguments. For a closing argument, the party who has the burden of proof must be given the first opportunity to argue. The other party will then be given an opportunity to present their closing address. The closing address should include the following: Define the issues and refresh the arbitrator's memory on which facts are disputed and which are common cause, and outline the burden of proof regarding the issues in dispute Reasons why the evidence of the other party should be rejected The disputed facts are then discussed by highlighting the weaknesses in the opponent's case.

Closing Statement Example

After hearing all the testimony and reviewing all of the evidence today I am positive you see that we had just kept for termination.

In our opening statement we talked about the fact that Officer [redacted] This admission case evidenced that Officer violated the duty and harassment provisions of the contract, was consequently discharged and thus warranted that if a violation of the policy occurred again it would result in a discharge.

Like the facts of Claude H.H., the grievant in this case, Officer Sue, was disciplined for prior harassment and she was warned that further such behavior could result in discharge.

We are here today because Officer Sue did not stop at one offense, she did not learn from her past mistakes. Officer Sue was terminated from her employment because of her very aggressive behavior as well as her use of intimidation and fear to put power over smaller and weaker people.

As we conducted the interview process we uncovered Officer Sue's true personality. She has demonstrated her power over others by bullying, harassing, and intimidating smaller and weaker people. We found Officer Sue in clear violation of rules 1, 6, and 10. And also during our interview we failed to investigate circumstances that would explain or excuse her abusive behavior.

Here is a quick review of what the rules are: In Rule 3, it states that employees shall not touch a person in anger in an unauthorized manner. Officer Sue violated this rule by touching the grievant in anger, in a hostile manner so that he wouldn't feel understood as the complaint is directed to him. Rule 6 states that employees shall engage in behavior that is harmful to the health, safety, or welfare of other personnel. Officer Sue violated this rule by threatening people (neighbors, friends, and family) that they would be in danger. This action caused psychological damage to the grievant and his family.

Rule 10 states that employees shall not use the authority of the employer, a governmental agency, or a labor union to intimidate anyone. This rule was violated when Officer Sue confronted James. She said and in the investigatory interview she was trying to "touch a teen's lesson." A question arises, how can a police officer intimidate someone? How many years did you know what that means? Did she really mean to communicate with the boy or was she simply being a bully with no intention of obeying man?

Sue, little ones can be harmful but his parents were right there, so why arrest him and put him in jail?

At this time we request that you please discontinue and uphold the termination of Officer Sue. Thank you.

This is achieved by advancing reasons why the other party's evidence should be rejected, and your evidence should be accepted. One can draw the presiding officer's attention to any concessions made by the opposition's evidence in cross-examination that influences their credibility and highlight contradictions and inconsistencies. Ensuring that all uncertainties are cleared up to persuade the presiding officer to conclude that your version is more likely to be the truth than that of your opponents. This is especially important with factual disputes where the commissioner has to decide which party's version is more probable. Draw the arbitrator's attention to principles of law and authorities from which those principles are extracted.

[illegible]

An effective closing address will typically consist of 4 logical steps. Identification of issues to be decided The parties have decided which facts will be disputed and which facts were agreed upon from the onset. The latter is more commonly known as common cause. A compelling closing argument will remind the commissioner of the issues he is left to decide and the issues the parties have agreed upon or are not in dispute. Analysis of witness testimony and evidence Each witness's testimony should be analysed. The commissioner's attention should be drawn to any questions or contradictions that the opponent's witnesses could not answer or the other party's failure to call a witness. In contrast, the commissioner should be referred to the strength and quality of your witnesses, and reference should be made to corroborating documentary, audio or other evidence.

Disposal of the opponent's evidence The mistakes in the logic of the other party's arguments should be highlighted. Application of the law to the facts it is advisable to have legal authority on hand which supports your case. A full copy of the judgement should be readily available for the commissioner to peruse. Whilst the value that can be added by way of a compelling closing argument cannot be underestimated, a party must still spend a considerable amount of preparation time and effort to successfully prove the facts upon which the closing argument is based. Article by: Janeske Greeff Dispute Resolution Official - Cape Town