



**NAMIBIA UNIVERSITY
OF SCIENCE AND TECHNOLOGY**

FACULTY OF COMMERCE, HUMAN SCIENCES AND EDUCATION

DEPARTMENT OF SOCIAL SCIENCES

QUALIFICATION: BACHELOR OF EMPLOYMENT AND LABOUR RELATIONS HONOURS	
QUALIFICATION CODE: 08 BERH	LEVEL: 8
COURSE CODE: ELL812S	COURSE NAME: EVIDENCE IN LABOUR LAW
SESSION: OCTOBER 2025	PAPER: THEORY
DURATION: 3 HOURS	MARKS: 100

FIRST OPPORTUNITY QUESTION PAPER	
EXAMINER(S)	MR OHMS M KAYAMA
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INSTRUCTIONS	
1. Answer ALL the questions.	
2. Write clearly and neatly.	
3. Number the answers clearly.	

PERMISSIBLE MATERIALS

1. EXAM PAPER.
2. PEN AND PENCIL.

THIS EXAM QUESTION PAPER CONSISTS OF 3 PAGES (including this front page)

Question One

- 1.1 Discuss the scope and 5 (FIVE) sources of the law of evidence in Namibia as they pertain to labour dispute resolution. (10)
- 1.2 Define the following Latin legal maxims and explain their relevance in the context of disciplinary or arbitration proceedings under Namibian labour law: (10)
- a) *Audi alteram partem*
 - b) *He who alleges must prove (onus probandi)*
 - c) *Res ipsa loquitur*
 - d) *Nemo iudex in causa sua*
 - e) *Cui bono?*

[20]

Question Two

Critically discuss the difference between the burden of proof and the standard of proof in disciplinary and arbitration proceedings. Support your answer with relevant examples and authorities from the Labour Act 11 of 2007 and relevant case law. (20)

[20]

Question Three

A. Read the information below about evidentiary burden and determine **who must prove** the circumstances and **how can it be proven.**

- 3.1 There was a dismissal. (2)
- 3.2 There is a rule governing the offence. (2)
- 3.3 The employee knew about the rule or could be reasonably be expected to know about the rule when the offence was committed. (2)
- 3.4 The rule is legitimate and reasonable. (2)
- 3.5 The employee was constructively dismissed. (2)
- B. Do the following statements amount to direct or circumstantial evidence. (2)
- (i) Hilma hears shrieks and sees Natangwe holding a gun running from the house where Simasiku is later found dying from gunshot wounds.
 - (ii) Hilma testify that she had seen Natangwe shot Simasiku.

- C. List 4 (FOUR) examples of evidence that may be unreliable if not properly proved or corroborated. (4)
- D. Explain what is meant by the statement that says. Documents do not “**speaks for themselves**” (4)

[20]

Question Four

- 4.1 An employee, Tonia Guriras (Payroll Specialist), is accused of unauthorized salary adjustments with no witnesses, but audit logs show manual edits from her login. **Can she be found guilty based on this documentary evidence alone? Explain. (5 marks)**
- 4.2 Jessica Afrikaner, a supervisor in the Legal Department, was not given the opportunity to cross-examine Chester Likando, the HR Specialist who accused her of favouritism. **Is this procedurally fair? Explain your answer. (5 marks)**
- 4.3 Ligamena Angula faces a disciplinary hearing chaired by Duane Dausab, who is a close friend of the complainant and initiator, Getrude Xawes. Can Ligamena claim bias? **Explain with reference to legal principles. (5 marks)**
- 4.4 Critically discuss the ethical distinction between **preparing** a witness and **coaching** a witness in labour matters. **Why** is this distinction important for ensuring procedural fairness? (5 marks)

[20]

Question Five

Assume you are chairing a disciplinary hearing at Namibia Ports Authority (Namport). The initiator, a certain John seeks to submit a WhatsApp voice note and a printout of an anonymous email as evidence of gross misconduct.

Discuss, with reference to the principles of admissibility, whether such evidence would be admissible or inadmissible. Consider relevance, hearsay, authenticity, privilege, fairness and procedural fairness.

[20]

Total Marks [100]

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