



**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: NOVEMBER 2025	PAPER: THEORY
DURATION: 3 HOURS	MARKS: 100

SECOND OPPORTUNITY QUESTION PAPER	
EXAMINER(S)	MR OHMS M KAYAMA
MODERATOR:	DR FELIX MUSUKUBILI

INSTRUCTIONS
<ol style="list-style-type: none">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 1

Scenario:

A security guard was dismissed for alleged theft of diesel. During the disciplinary hearing, the employer relied on CCTV footage showing a guard near a tanker at night but no direct evidence of theft. The guard denied wrongdoing and claimed he was inspecting the area.

Question:

Discuss, with reference to the Labour Act 11 of 2007 and relevant case law:

1. Who bears the burden of proof in this case? (5)
2. What is the applicable standard of proof? (5)
3. Whether circumstantial evidence such as the CCTV footage can be sufficient to justify dismissal. (10)

(20)

QUESTION 2

Scenario:

At an arbitration hearing, the employer submits a written statement from a former employee who allegedly witnessed the misconduct. The witness has since emigrated and cannot attend the hearing. The employee's representative objects to the statement as hearsay.

Question:

Evaluate whether this statement should be admitted as evidence and what principles the arbitrator should apply in deciding admissibility. Refer to the Rules Relating to the Conduct of Conciliation and Arbitration and case law.

(20)

QUESTION 3

Scenario:

During a disciplinary hearing, two witnesses testified against an employee accused of gross negligence. One witness gives a confident but inconsistent account while the other is uncertain but consistent.

Question:

Explain how a fair and reasonable chairperson should assess the credibility and reliability of these witnesses and decide whose version to accept. Discuss key legal principles and case authority as discussed in class.

(20)

QUESTION 4

Scenario:

An employee was dismissed after an audio recording surfaced in which he appeared to admit falsifying overtime claims. The employee contends the recording was taken secretly and without his consent.

Question:

As an arbitrator, explain how you would determine:

1. Whether the recording is admissible.
2. How to balance the employee's right to privacy under Article 13 of the Constitution with the employer's right to protect its business; and
3. How to weigh such evidence when writing your findings.

(20)

QUESTION 5

Scenario:

In a disciplinary hearing, the chairperson found an employee guilty of misconduct for leaving work early without permission. The finding simply stated:

"The employee is guilty because the evidence shows he left before 17h00."

Question:

Critically analyze whether this constitutes a reasoned finding in law. Discuss what a valid and legally sound finding should contain and why reasoned decisions are crucial for procedural fairness and reviewability.

(20)

Total Marks [100]

..... END OF EXAMINATION PAPER.....