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Incompatibility occurs where an employee does not fit in with the work environment and relates poorly to colleagues and clients. Incompatibility can be dealt with as a form of poor work performance as it affects the employee's ability to work according to his or her contract. An allegation of incompatibility cannot be used against an employee exercising his or her rights under the Labour Relations Act (LRA).

Incompatibility is an amorphous and nebulous concept based on subjective value judgments (*Subrumuny and Amalgamated Beverages Ltd (2000) 21 ILJ 2780 (Arb) 2789G-H*). However, an employer is entitled to set reasonable standards pertaining to relationships in the workplace. Inasmuch as incompatibility is a vague concept, there must at least be some other evidence besides the say-so or opinion of the employer. Odd or eccentric behaviour of an employee, even if he or she happens to be a manager or a senior executive, cannot, per se, give rise to a ground for dismissal. Mild or harmless eccentricity should, of course, be distinguished from extreme forms of unacceptable behaviour. Dismissal may be appropriate only where the employee's eccentric behaviour is of such a gross nature that it causes consternation and disruption in the workplace, and then only after he or she has been properly counselled or warned (*Joslin v Olivetti Systems & Networks Africa (Pty) Ltd (1993) 14 ILJ 227 (IC) 230 F-J*).

Incompatibility cannot be reflected in any one particular incident but may actually be a concatenation of several incidents. When the conduct of an employee creates disharmony, the employer must evaluate the problem and attempt to assist the employee to overcome his or her personal difficulties, effect remedial action and, if necessary, place the employee in an alternative position. To justify a dismissal for incompatibility, the employer must prove that the intolerable conduct on the part of the employee was the primary cause of the disharmony. The enquiry entails proof that the employee was the primary cause of the disharmony.

The golden rule is that prior to reaching a decision to dismiss, an employer must make some "sensible, practical and genuine efforts to effect an improvement in interpersonal relations when dealing with a manager whose work is otherwise perfectly satisfactory" (*Lubke v Protective Packaging (Pty) Ltd (1994) 15 ILJ 422 (IC) 429D-E; Hapwood v Spanjaard Ltd [1996] 2 BLLR 187 (IC) 196-7*). The offending employee has to be advised what conduct allegedly causes disharmony, who is upset by the conduct, and what remedial action is suggested to remove the cause of the disharmony. A reasonable period must be allowed for the employee to make

amends. The incompatibility that causes the breakdown in a working relationship must be irreparable (*Wright v St Mary's Hospital (1992) 13 ILJ 987 (IC) 1004A*). Dismissal is regarded as a last resort (*Hapwood v Spanjaard Ltd [1996] 2 BLLR 187 (IC) 198C-D*).

The LRA does not make any specific reference to "incompatibility" as constituting a ground for dismissal. The three stated grounds are: misconduct, incapacity and operational requirements. The Industrial Court has held that there must be a breakdown in the working relationship that is "irreparable" (*Wright v St Mary's Hospital (1992) 13 ILJ 987 (IC) at 1004B*). If the underlying cause of the disharmony can be removed then the relationship is capable of being restored.

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