

Understanding insubordination

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It is a well-established principle, that employees must obey the lawful and reasonable instructions of their respective employers. Refusal to follow such instructions may constitute insubordination. While in some cases insubordination may constitute misconduct, the scope and role of insubordination can sometimes be unclear (Rainer, 2019).

What is insubordination?

Scholars and authorities define insubordination in various ways but the core meaning of it is sort of the same across all the definitions. There does seem to be confusion regarding when an employee must be charged under this heading of “insubordination”, or whether the charge should be under a different heading. Below are some of the definitions of insubordination:

According to CareerMinds (2020), *insubordination is a direct refusal to perform an ethical and reasonable action that was requested by a manager.* That middle part is important. The requested action must be logical, ethical, and reasonable to be counted as insubordination if not carried out. The employee must also fully understand the request and still refuse to do it.

According to the South African Labour Guide (2019), *insubordination may be described as resistance to or defiance of authority, disobedience, refusal or failure to obey reasonable and lawful instructions, insolence, cheekiness, rudeness, bringing the employer's name into disrepute, and rebellious or mutinous behaviour resulting in an actual work stoppage.*

According to HRZONE (2020), *insubordination occurs when someone explicitly or implicitly, but always consciously, disobeys the orders or wishes of a superior. It is commonly used to describe instances in the military where junior personnel actively disobey superior officers. For insubordination to occur, the superior officer must have the remit and authority to compel the lower-ranked individual to act.*

Insubordination vs Insolence vs Misconduct: Recognize the difference

As a starting point, a distinction must be made between insubordination, mere insolence, and misconduct. Local courts have defined insubordination as follows:

“A willful and serious refusal by an employee to obey a lawful and reasonable instruction or where the conduct of an employee poses a deliberate (willful) and serious challenge to the employer’s authority”

The distinction is an important one because insubordination is a more serious and deliberate offence as

opposed to insolence or rudeness. From the above, it is clear that insubordination in its simplest form is a refusal to follow lawful and reasonable instructions by an employer. Insubordination may manifest itself either directly or indirectly. An example of direct subordination would be where employer A instructs employee B to perform a task and B states “I will not” or I refuse”. An example of indirect insubordination would be where an employee is clearly instructed to do something but ignores the instruction by deliberately omitting its execution.

Insubordination is easy to understand: it is the outright refusal to obey orders from a supervisor or manager even though the order was reasonable and within their job duties. Despite this, people get insubordination confused with other rule violations, such as insolence and misconduct. This is largely because insubordination can lead to insolence and misconduct if the employee keeps being insubordinate.

Insolence on the other hand is defined as rudeness, insolence, or cheek by an employee towards their employer. However, mere rudeness by an employee does not necessarily presuppose a direct and deliberate challenge to authority or even a refusal, and at times can often be an emotional reaction. While an employee’s actions may be insolent, they may not be insubordinate per se (Schoeman, 2019).

Misconduct is even easier to grasp because it is when rule-breaking violates bigger rules, such as a law, a harassment policy, or is unethical in general. Misconduct is a step up from the other two and needs disciplinary action (or legal action sometimes) as quickly as possible. Always make sure that you have a code of conduct at your organization that goes over what is and what isn’t misconduct (Careerminds, 2020).

As one can see, insubordination is just an understood refusal to follow orders. The employee must know what is being asked and understand the task completely but still refuse to do it. For conduct to constitute insubordination, there must be a willful and calculated intention by the employee to ignore or challenge the lawful instruction of the employer.

What are some examples of insubordination?

Inappropriate Language

The use of inappropriate language directly or about a manager constitutes insubordination. When an employee chooses to address a manager in any of these manners, it is because he is upset and not thinking clearly. After a respite, calmly the manager must ask the employee to join them in a private discussion in which they can attempt to work through the problem.

Defying Management Directives

Managers expect their directives to be followed by their employees, and when a worker disregards instructions, the manager should be concerned. The manager can often remedy the situation by explaining to the unresponsive individual why they gave a particular task, offer additional instruction on how to complete the work, and express their appreciation of his/her cooperation. Generally, this will

motivate the employee to follow the manager's directions. If not, the manager needs to issue a written warning, which shows the employee they are serious about his/her lack of regard for their directives and that they will enact further consequences should the insubordination continue.

Intimidation and Harassment

Verbal or physical aggression by an employee toward the supervisor is insubordination for which it must be shown zero tolerance. An immediate suspension of duties is required in cases of spoken threats or harassment. The length of the suspension should be commensurate with the level of the offense. For example, a promise to "turn other employees against the supervisor" merits a shorter suspension than a more intimidating statement. Any act of physical violence or threat of such should be grounds for immediate termination. Call the police to report the incident and consider investing in security systems and hiring trained security personnel to protect you and your business (Schoeman, 2019).

Failure to Perform

Organizations hire employees to get the job done. If an employee is given a duty and ignores the command or refuses to execute it, this is a failure to perform. If the employee has some ethical or legal concerns about the order, he must address this with the supervisor clearly stating his/her concerns on the matter. A written record of the failure to perform and any employee excuse is added to the employee's file. Employees do have the right to refuse to perform a directive if it would put them in danger or conflicts with expressed ethical or legal issues. For example, a steel mill worker can refuse to run into the mill where a fire has started.

In short, examples of insubordination include such things as verbal or non-verbal refusals on an employee's part to complete the work given to him by his supervisor, or taking action to countermand a supervisor's directions to others. Another example of insubordination may occur when an employee resorts to disrespectful behaviour, such as cursing or yelling at a supervisor; being verbally or physically intimidating toward a supervisor; or speaking argumentatively, either directly to a supervisor, or his colleagues about a supervisor. Refusal to obey commands of a supervisor.

What is the definition of insubordination in the workplace?

Insubordination in the workplace *occurs when an employee either simply refuses to comply with an order issued by his supervisor, or when he gets into a confrontation with that supervisor. There is a significant difference between an employee disagreeing with what was asked of him, and flat-out refusing to comply (Legal Dictionary, 2016).*

Insubordination in the workplace can have severe consequences, including termination, as the employee's refusal to work is a direct breach of the employment contract to which the employee agreed when accepting his position with the company (Careerminds, 2020). An employee can, however, refuse to comply with a supervisor's directions if they are to engage in some illegal activity, or if the supervisor is attempting to provoke or harass the employee. Simply not agreeing with a supervisor's directions, or feeling they are unfair, does not give an employee the right to disregard the instructions.

An employee who is asked to do something illegal, or who feels he is being baited into a fight or argument should report the problem to the next supervisor on the chain of command. Because an employee who badmouths a supervisor to co-workers may be accused of insubordination in the workplace, reporting such issues should be done discreetly and professionally (Careerminds, 2020).

Insubordination in the workplace: What is serious insubordination?

According to [BrightHR](#) (2019), serious insubordination is an example of gross misconduct where an employee refuses to follow sound instructions given by a supervisor or manager. For it to be gross misconduct, the act must be so serious that it breaks any trust or confidence between a boss and their employee. Normally, this will warrant summary dismissal. Another term for this is “dismissal without notice”. In the ideal workplace, all staff treats each other with respect. But sadly, every workplace comes with its problems, including employees who can prove troublesome for one reason or another.

What makes insubordinate behavior “serious”?

Serious insubordination examples include:

1. Rude behaviour.
2. Aggressive behaviour.
3. Threatening behaviour.

These terms are a bit vague, but a company’s best bet is to set out the rules and standards of conduct in its workplace. The company gets to clarify what counts as serious insubordination. Once it has its policy, it should be supported with a fair disciplinary procedure—in other words, how cases will be handled if an incident occurs or if somebody makes a charge.

The company’s employee handbook should be used for setting out all this information. It should be made clear that the list of examples in the handbook might not be exhaustive—that way a company can deal with any unforeseen circumstances in the future. The company should ensure that all staff is given a copy when they start working for them.

EVERYTHING YOU NEED TO KNOW ABOUT INSUBORDINATION

There does seem to be confusion regarding when an employee must be charged under this heading of "insubordination", or whether the charge should be under a different heading.



INSUBORDINATION VS INSOLENCE VS MISCONDUCT: RECOGNIZE THE DIFFERENCE



What would be considered insubordination?

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What would be considered insubordination?

Elements of insubordination

For conduct to constitute insubordination, several elements must be present;

1. It must be clear and evident that an order was given;
2. Such an order being given may not be unlawful;
3. The reasonableness of the order must have been beyond reproach.

From the above, it is clear that firstly the employee must be made aware of the order or instruction to carry out a task and must knowingly refuse to do so. This order can be from any senior colleague in the workplace with the authority to instruct the employee and need not be a specific person. Such an order may also be in the form of a warning and can be either written or verbal.

The order itself may take the form of a verbal directive, written instructions, the duties as described in a job description, and even an implied set of duties where no formal job description exists. Employee acknowledgements can be verbal, nonverbal (nodding) or even the acceptance of a job offer. An employee's unwillingness to carry out a directive can manifest itself as a verbal refusal, a nonverbal refusal, or an unreasonable delay in completing the work. Being verbally disrespectful is not a requirement here, as simply refusing to punch a time clock when directed to do so will constitute insubordination.

Employer policies prohibiting insubordination often go beyond disobedience to include rude and disrespectful behaviours, best described as insolence. These behaviours can include cursing, verbal or physical intimidation, personal insults, eye-rolling, or mocking, as well as speaking loudly or argumentatively in front of others. Over time, insolent behaviours can also affect a manager's level of respect and ability to manage, thereby enmeshing insolence and insubordination. Employers can expect employees to show professionalism and respect toward others and may discipline them when they don't.

Secondly, it is clear that instruction cannot be unlawful. For example, an employee cannot be asked to steal or commit a crime.

Perhaps most importantly, the instruction must be reasonable. This means that the instruction should fall within the normal course and scope of the employee's duties. An example of unreasonableness would be where a debtor clerk is asked to audit the company – it is unreasonable because it is clearly beyond what is expected of a debtor clerk, and they may not feel qualified for the task. In such cases, an employee may refuse. However, although a task may not be directly related to an employee's duties, it may be ancillary and necessary for the employer's operational requirements. In such a case an employee's refusal would likely not be reasonable.

Here's more to provide even greater clarity:

The order itself may take the form of a verbal directive, written instructions, the duties as

described in a job description and even an implied set of duties where no formal job description exists.

Careerminds, 2020

"Employee acknowledgments can be verbal, nonverbal (nodding) or even the acceptance of a job offer. An employee's unwillingness to carry out a directive can manifest itself as a verbal refusal, a nonverbal refusal, or an unreasonable delay in completing the work." They go on to say that being verbally disrespectful does not qualify as insubordination at this stage, though that may fall into the insolence category. Instead, the actual *refusal* is what is important to look at.

Thus, the given order mustn't be something unethical or potentially harmful. For example, if you have an employee standing a rickety ladder to change a light bulb, the employee may blatantly refuse because it is unsafe. This would not constitute insubordination because you have asked the employee to do something dangerous.

Ethics can be an even harder area for HR to deal with because a manager could give a command to do something shady and the employee refuses because it is unethical (Schoeman, 2019). In these types of situations, HR needs to step in and sort the matter out to see if the employee is being insubordinate or the manager is being unethical in their practices.

The characteristics present in insubordination would be a willful, verbal refusal of instructions, willful disregard of management authority, disrespect, rudeness, rebelliousness or disobedient gestures, manner or attitude, dismissive gestures, walking away, abusive language, knocking the written instruction or notification of inquiry from the senior manager's hand, or taking it and discarding it, addressing the senior manager or director or supervisor in a disrespectful manner.

That should be sufficient to identify whether the offense is insubordination or not. Disciplinary sanctions can include written warning, final written warning, or even dismissal – depending on the severity of the offense. Every employee not only has to come to work and be on time and so on, but also the duty to obey all reasonable and lawful instructions. In other words, to do as he/she is told, within the parameters of what is accepted as being a reasonable and lawful instruction, because this is at the heart of "insubordination".

Why do employees refuse to obey instructions?

There are as many reasons for refusing to obey an instruction as there are instructions. One of the most common reasons for refusal is "it is not in my job description." Deal with it on the basis that providing the required task falls within the parameters of the job description, and providing the instruction is reasonable and lawful, one will be able to demand that the employee does it (Labour Guide, 2019).

A job description, by definition and implication, is a written description of those tasks that the employee is expected to do. However, in practice, it is accepted that it is impossible to include in a job description a full description of every task that the employee must attend to. It follows as a consequence that some tasks are written into the job description by implication – or, if you like, the tasks are not stated through the written word, but they are stated: "between the lines."

Put differently, the mention of one task implies the inclusion of another task. Therefore, the fact that a specific task is not mentioned in writing in the Job Description, does not give the employee the right to refuse to do it now or in the future.

If the employee, or others doing the same job, have performed the task in the past, and it is lawful and reasonable, then the employee must continue doing it now – even if he/she has suddenly discovered to his/her great delight that it is not written in his job description. This should be brought to the employee's attention, and he/she should be warned that his/her continued unreasonable refusal may lead to disciplinary action, and the supervisor should proceed accordingly.

Job Descriptions do not replace company procedures nor operating procedures. However, if the employee has never before carried out this task, then consult with him/her about this change to the job description (if it is to be a permanent as opposed to a once-off thing) and reach some agreement. This would be an informal discussion, where you explain the task, what is required, the standards to be met, and show that it falls reasonably within the existing parameters of the job description. Show also that it is lawful and reasonable. Unless the employee can show good and valid reasons to the contrary, then the employee must do it or any continued refusal would constitute misconduct.

How to Handle Insubordination

If a manager has made sure that the order was understood by the employee, that it is an ethical and safe order, but the employee outright refuses to do it. This is a clear case of insubordination. Now what? Since insubordination typically happens to managers - not HR leaders - the first step is to make sure that the organization has policies on paper that address how management should respond if someone is insubordinate.

Right after the infraction, the manager should stay as professional as possible and explain the task again if the employee seems confused. If the employee is being disrespectful and clearly understanding the task, professionalism is key for the manager.

The manager cannot give in to the temptation to be disrespectful when confronted with insubordination (Careerminds, 2020). They must keep their cool under pressure. If need be, they can walk away from the interaction to cool down, though they should explain that not following the order is insubordination and a rule violation. By explaining that not following the order is, in fact, insubordination, the manager is giving the employee a second chance before moving the situation to HR.

If the above does not work, now it is in HR's hands. HR needs to look into the issue and try to determine what happened. This can be easy or hard depending on the people involved and what insubordinate

behavior occurred (Careerminds, 2020). HR should first examine the order to see if it is ethical, safe, and logical. If that all checks out, it is time to look at the situation from the eyes of the employee to see why they are refusing to carry it out.

It is very common in these situations to find out that a personality conflict or a misunderstanding caused insubordination, both of which can be resolved (typically). While investigating, HR should - within reason - give the employee the benefit of the doubt and try to put themselves in the employee's shoes. If after all of that it is still clearly insubordination (especially if there is insolence peppered in as well), it is time for HR to act according to their [disciplinary policy](#).

How serious is insubordination?

Insubordination in the workplace can have severe consequences, including termination, as the employee's refusal to work is a direct breach of the employment contract to which the employee agreed when accepting his position with the company. As mentioned earlier an employee can, however, refuse to comply with a supervisor's directions if they are to engage in some illegal activity, or if the supervisor is attempting to provoke or harass the employee. Simply not agreeing with a supervisor's directions, or feeling they are unfair, does not give an employee the right to disregard the instructions.

Consequences of insubordination

Insubordination Letter

An insubordination letter serves as a warning letter to an employee who has defied authority or acted in direct opposition to commands by superiors. Such a letter specifically describes the employee's actions, or failure to act, including the instructions given, and the date and time of those instructions. The insubordination letter may go on to quote the company's insubordination policies, if any exist, and specifically state how the employee is expected to act in the future.

Because refusing a supervisor's order because the employee believes it to be dangerous or illegal is not considered insubordination, many such letters also outline the proper steps to take, should the employee have any questions about, or objections to, tasks he is ordered to perform.

An insubordination letter serves as a disciplinary action and warning of future action that may be taken. For this reason, it is common for insubordination letters to specifically state what will happen should the employee exhibit further insubordinate behavior. For documentation purposes, such letters often contain a place at the bottom for the employee to sign and date, confirming his receipt of the warning letter.

Disciplinary Action and Insubordination

How you handle insubordination largely depends on your employee handbook and code of conduct (Careerminds, 2020). These rules can vary quite differently from organization to organization. In short, though, it's reasonable to assume that insubordination will follow the same path as any rule-breaking

behavior. After the first infraction, the employee is warned verbally. After the second, it becomes a written warning. And, finally, after the third, the employee is either suspended or fired from the organization.

Why so many steps?

Well, in a perfect world, insubordination will stop after the first warning, like many rule violations. Also, the employee could have a strong reason for insubordination that managers and HR leaders didn't pick up on. By having a three strike policy, HR and management can create a paper trail of evidence that shows that the employee has been insubordinate over the long run, keeping the organization out of legal trouble if the matter should escalate that far (Careerminds, 2020).

This process is important. You need to make sure that you are following your official disciplinary policy to ensure that, if it comes down to it, you have the proof you need to show that the employee has been insubordinate or causing other problems.

As mentioned earlier in this paper, if a superior does not take any action, insubordination can easily turn to insolence and misconduct, which are bigger issues to deal with. With all that said, there are things one needs to consider *before* action is taken, too, especially when dealing with insolence, which oftentimes can pop up at the same time insubordination happens. For example, if the person curses or says something wrong in the moment of the infraction, you need to pay close attention to how your company's culture plays into that action.

Also, when addressing insolent or insubordinate behavior, the employer should consider the culture or circumstances in which an incident took place, (Careerminds, 2020). For example, if cursing is common "shop talk" in the workplace, the employer would need to consider whether the language used by the employee was unusual enough to be considered abusive.

Also, if you are having trouble understanding the full brunt of the infraction and what disciplinary actions to use, always double-check with your legal team to ensure that you are following all state laws. [Terminating employees](#) can be a daunting process. The organization needs to make sure it has all of its bases covered.

When Is It Not Insubordination?

For the HR team, it is important to thoroughly examine insubordination claims as a third-party investigator that is not playing one side (BrightHR, 2020). For example, one should not simply believe the manager because they are the manager. There is a need to check one's bias as much as possible. This means that one also has to know when it is not insubordination and when the employee is not in the wrong. This is an easy process.

Insubordination can only occur when the employee disobeys a request that is reasonable, ethical and part of their normal job duties. In other words, the request cannot be illegal or dangerous, as mentioned above.

Also, insubordination is not the same as debate or disagreement. For example, if someone does not believe that the task will help the business, you want him or her to say so. Employees oftentimes care about the business they work for and do not want to see it fail because of a move that they know - or believe - is wrong.

A good example is to let us say there is an employee who does not like performing a task that they believe is not impactful. They bring this up to their manager, making a strong case for why it is not a good use of time. The manager may feel like this is insubordination because the employee is pushing back against an order. This is not insubordination, *yet*.

A healthy debate is one thing. However, it does become insubordination if the employee flatly refuses to do the task after the debate or does things to intentionally make the task fail (Careerminds, 2020).

Another example: say that an employee has been tasked with cleaning up a loading dock. They argue that this is not a good idea because the dock is going to be dirty again when the next truck arrives. After pleading their case, the manager still wants them to do it. If the employee simply does not do it and refuses the task, you have a clear insubordination claim. The employee may also do other actions that intentionally mess up the task, too. In this case, they may clean the dock but move all of the pallets in front of the loading bay or cause a bigger mess. This derails other people from performing their jobs and is a sign of insubordination because they undermined the order.

Conclusion

In conclusion, it can often be difficult to distinguish insubordination from insolence or bad behavior. More so, the circumstances of each instance, as well as the employment relationship and industry will also play a decisive role. Generally, insubordination must be a clear and unreasonable refusal to follow instructions. When claims of insubordination are made, HR has to look into the issue as a third-party investigator to examine whether or not the employee fully understands the order and to try to get to the bottom of why they are refusing to do the task. If the matter cannot be resolved by speaking with the employee and manager, HR should document the infraction. Typically, after a certain amount of insubordination claims, the employee will undergo disciplinary action. This usually means that they will first be warned verbally, then in a written warning, then a suspension or firing, depending on a variety of variables.

Insubordination can oftentimes lead to insolence and misconduct. However, both of these issues are different than insubordination and should be treated accordingly. It is important to stop insubordination before it can escalate to insolent behavior or misconduct. Both of these terms should be clearly defined in your code of conduct. If there is a need to terminate employment because of insubordination, it should have a properly planned out firing policy that includes a letter, a meeting, and whether or not the employee will receive any benefits. In the end, insubordination should be thoroughly investigated and - if it truly is insubordinate behavior - stopped before things get out of hand and managers lose control over their staff, which can lead to a drop in productivity, a tarnishing of employer brand, and create a hostile work environment.

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<https://thehumancapitalhub.com/articles/understanding-insubordination>