



The Effectiveness of our Dispute Resolution Forums

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Tokiso Dispute Settlement



8 May 2025 - Johannesburg, South Africa | www.labourlawsummit.co.za

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- Scope of our forums
- What cases keep us (parties and lawyers) busy
- What the stats are saying
- The challenges and the questions to ask

Forums

There are five tribunals/routes which employment cases can be referred (excl. the Labour Court)

INSTITUTION	RELEVANT LEGISLATION	OTHER REQUIREMENTS
CCMA	LRA (s115)	None
Bargaining Council	LRA, s28(1) & s51	Registration (s29) & Collective agreement & CCMA accreditation (s127)
Private Agency	LRA, s127	CCMA accreditation (s127) & Collective agreement OR Employment Contract clause OR Agreement
Private ADR process (fac, med, con, inv)	None [future Mediation Act]	Collective agreement/s OR Employment Contract clause OR Agreement
Private Arbitration	Arbitration Act	Collective agreement/s OR Employment Contract clause OR Agreement

Forums: What and how

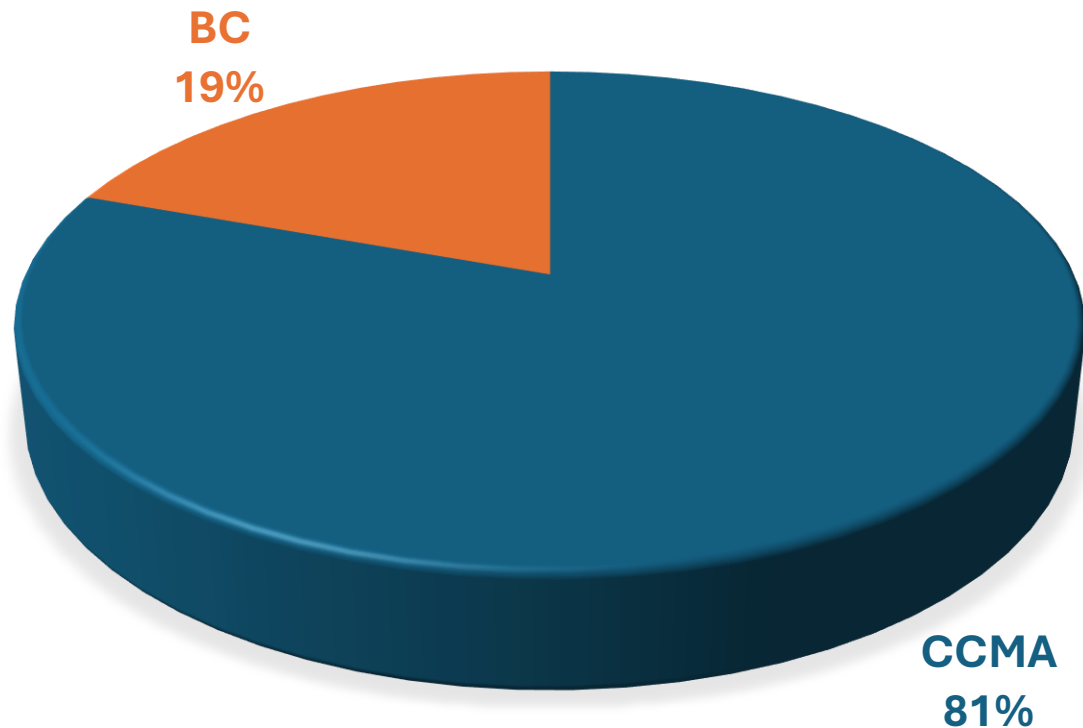
INSTITUTION	SCOPE	WHO CAN CONDUCT PROCESS	WHO APPOINTS PRESIDING OFFICER	HOW PAID FOR
CCMA	s115 of LRA	CCMA commissioner s189A – facilitator	CCMA	Drawdown from Dept of Employment and Labour [2023/4: R1,041 bn] & other
Bargaining Council	s51(3) – interp & appl of CA; strike/lockout cons, disputes in essential services, unfair dismissals, ULPs, severance pay, s188A	CCMA accredited commissioners s189A – facilitator (by agreement)	BC Some BCs – parties can agree otherwise BC appoints	Dispute Resolution Levies Subsidies from CCMA (s132)
Private Agency	s127(1), cons, arbs, s188A IBA, excludes organisational rights, demarcation, disclosure of info, workplace forums, joint decision making, stat councils, interp & appl where no procedure in CA Enforcement s189A (on form, not in statute)	CCMA accredited commissioners s189A(4) – facilitator (by agreement)	Parties agree otherwise Tokiso appoints	Parties (employer if employee under threshold) Subsidies from CCMA (s132) possible
Private ADR process (fac, med, con, inv)	Scope determined by agreement	Any selected person	Parties agree on person or process to appoint	Parties, as per agreement
Private Arbitration	Scope determined by agreement	Any selected person	Parties agree on person or process to appoint High Court	Parties, as per agreement or applicable Rules

The CCMA/BC stats



Where are the cases going?

2023/4 CASE REFERRALS

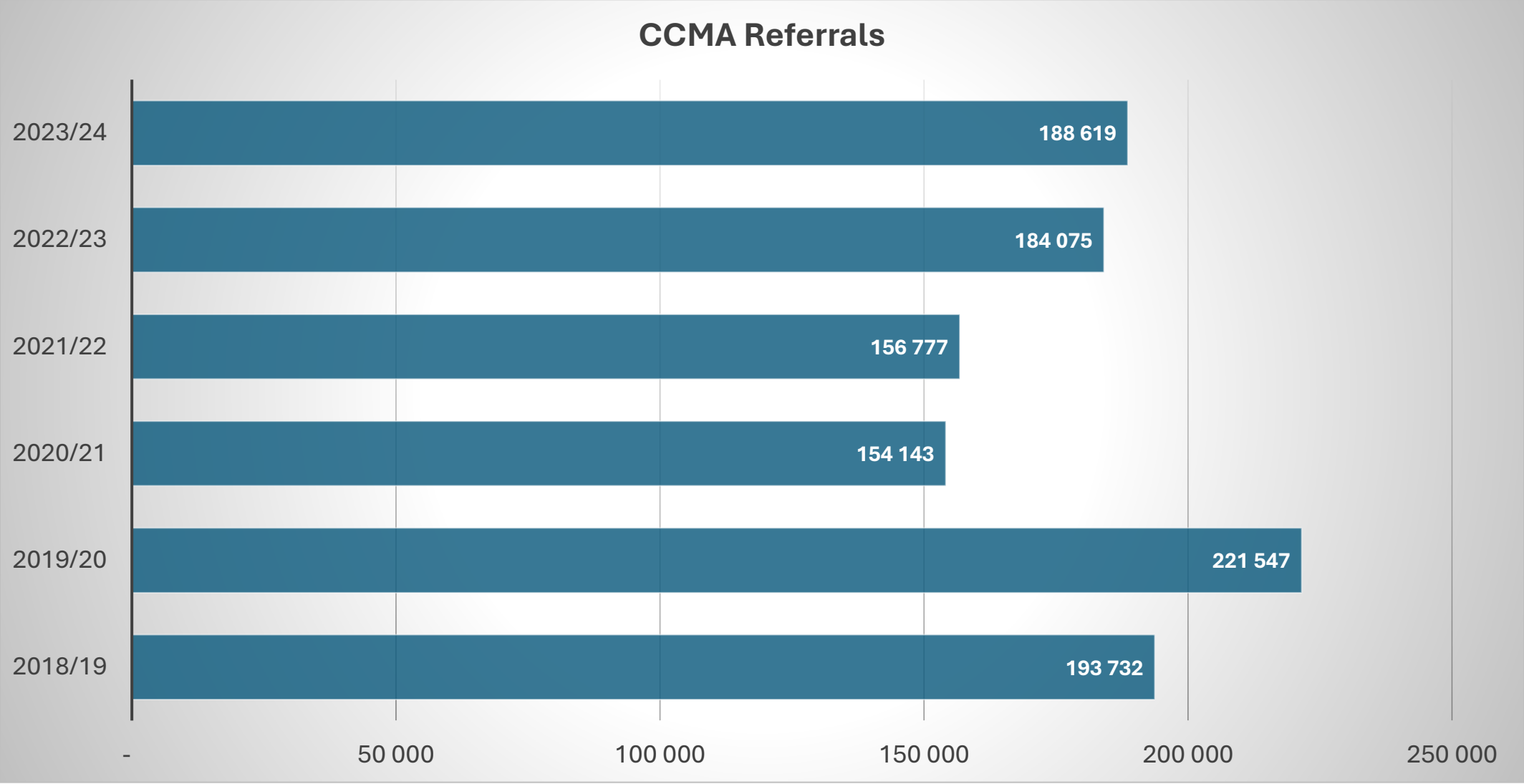


CCMA: 188,619

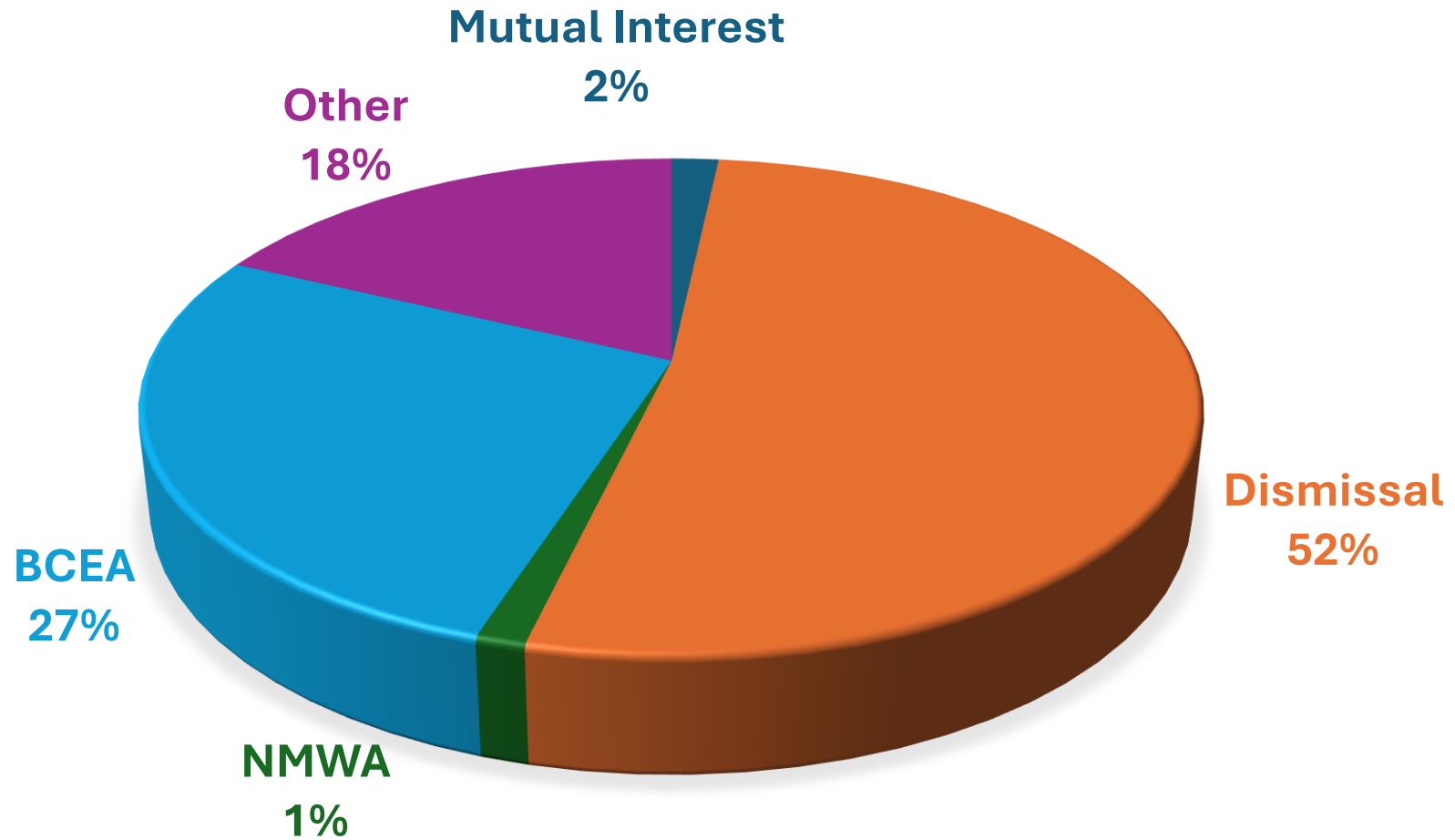
BC: 45,583

TOTAL: 234,202

One case every two
minutes – 365 days in
the year, even while you
sleep!



NATURE OF CCMA CASES (2023/4)



CCMA Stats – impressive efficiencies (2023/4)

CONCILIATIONS:

- 140 258 “conciliable cases”
- 99.7% heard within 30 days
- average turnaround of 25 days
- Settlement rate of 76%

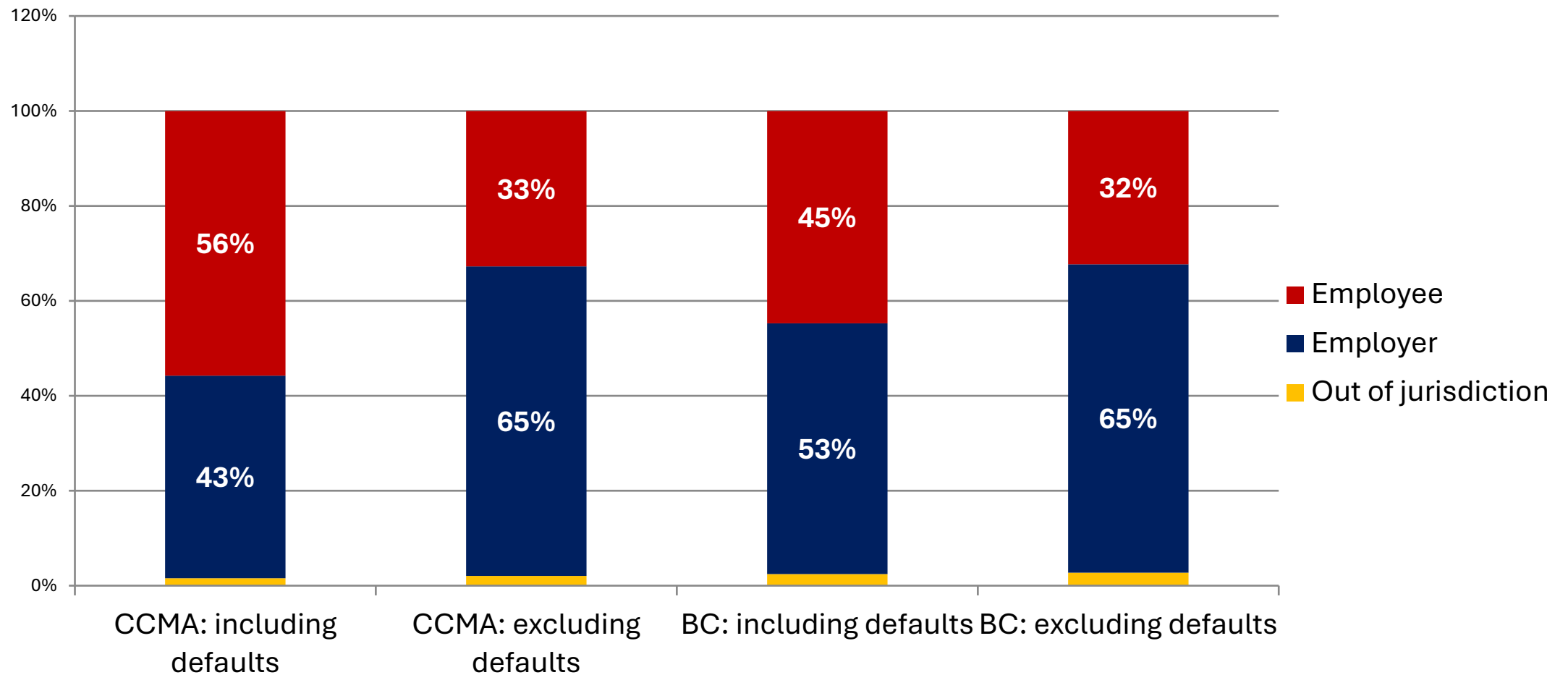
ARBITRATIONS:

- average turnaround of 85 days
- 100% of awards issued in 14 days
- 17 130 awards issued

Source: CCMA Annual Report 2023/4



CCMA Outcomes



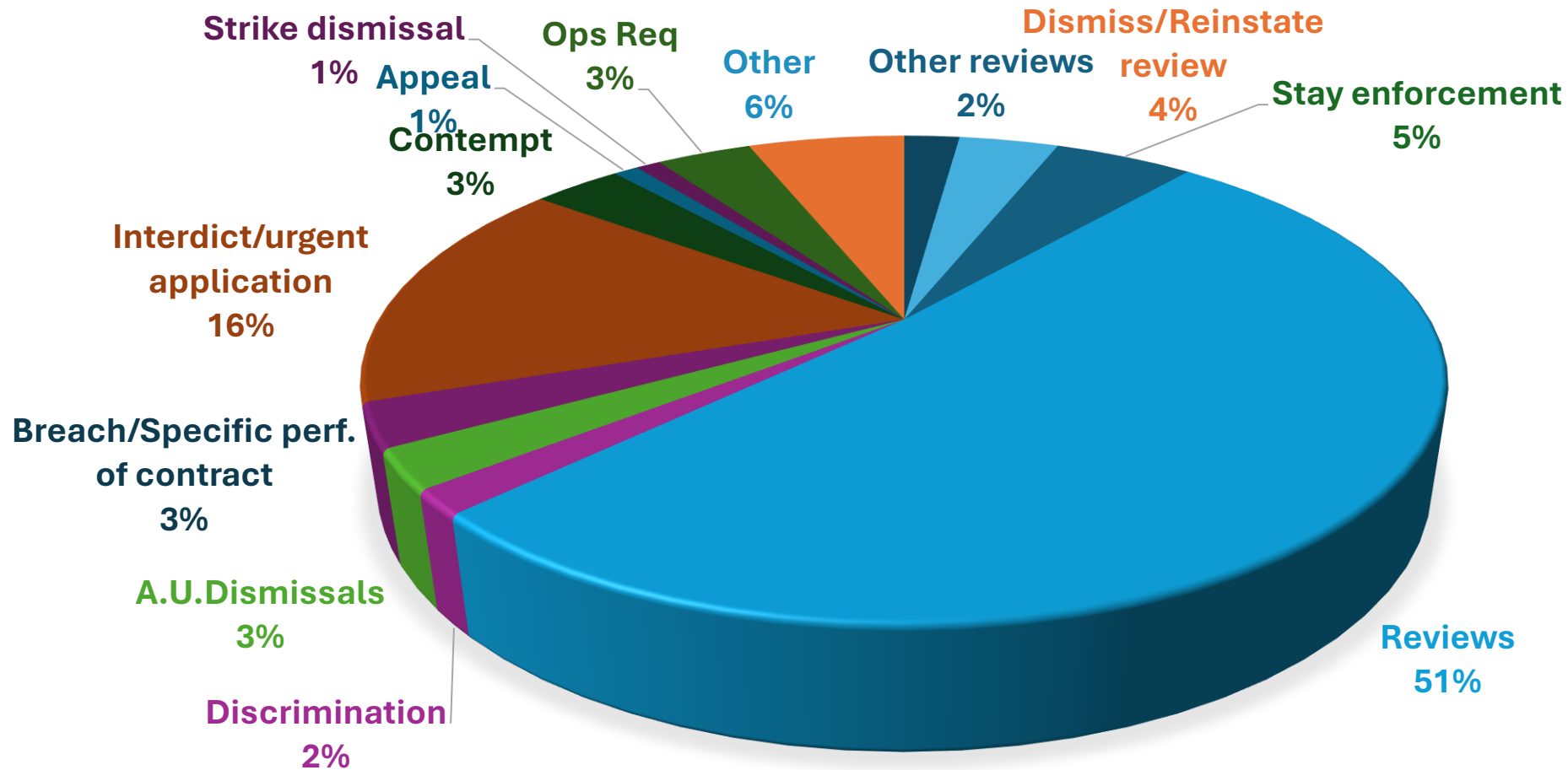
Source: Tokiso Review 2015

Enforcement

- 2023/4 - Section 143 applications of CCMA awards not published
- 2023/4 – 6,924 section 143 applications were processed for bargaining councils (6518 in 2022/3)
- Enforcement-related issues are the pastime of the unopposed role at the Labour Court

Labour Court stats

The Labour Court: A court of review and enforcement (2021-2024 – opposed matters)

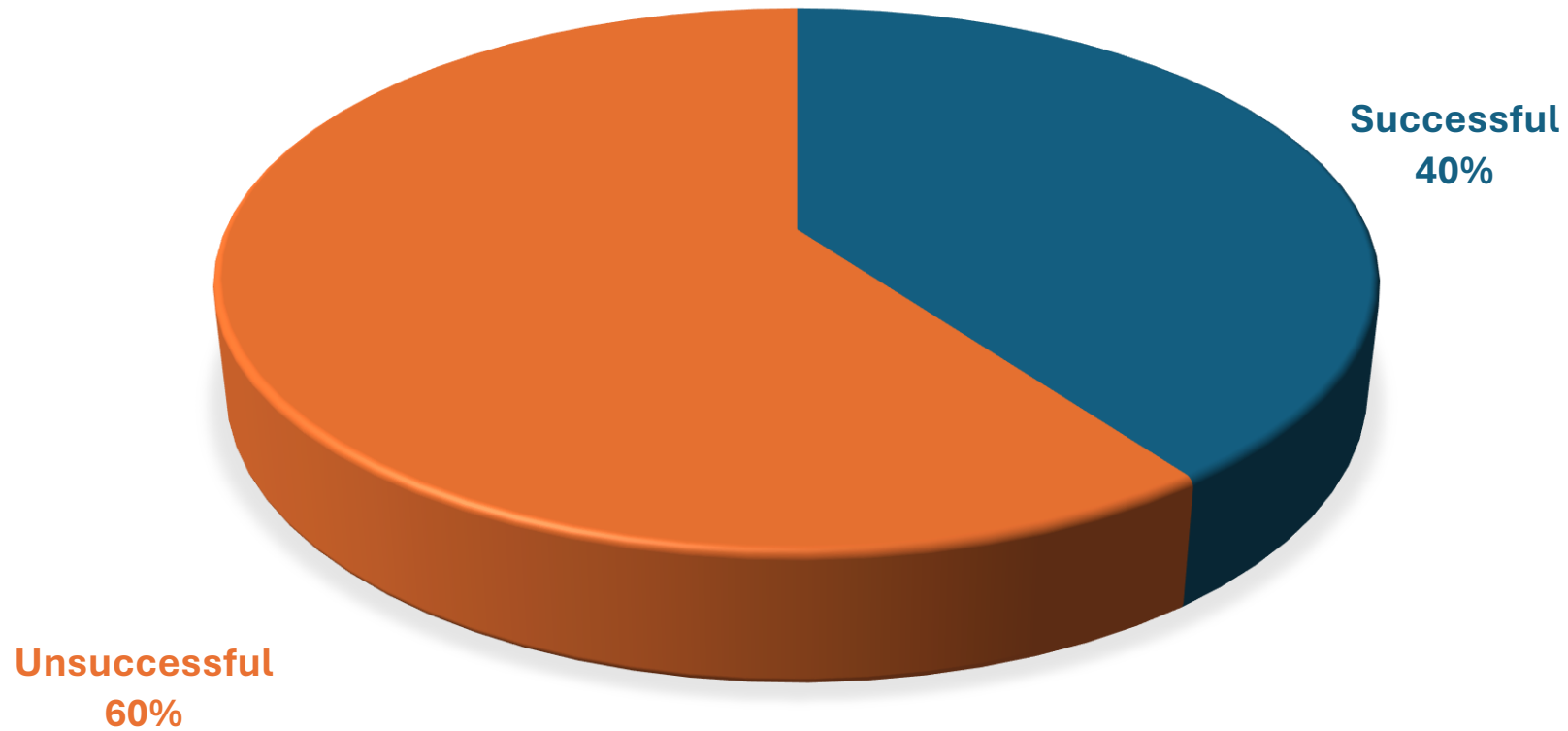


2021/4 judgments:
1726 from SAFLII

Source: Tokiso Research March 2025 (unpublished)

Outcome of reviews?

2021-2024 JUDGMENTS: REVIEW OUTCOME

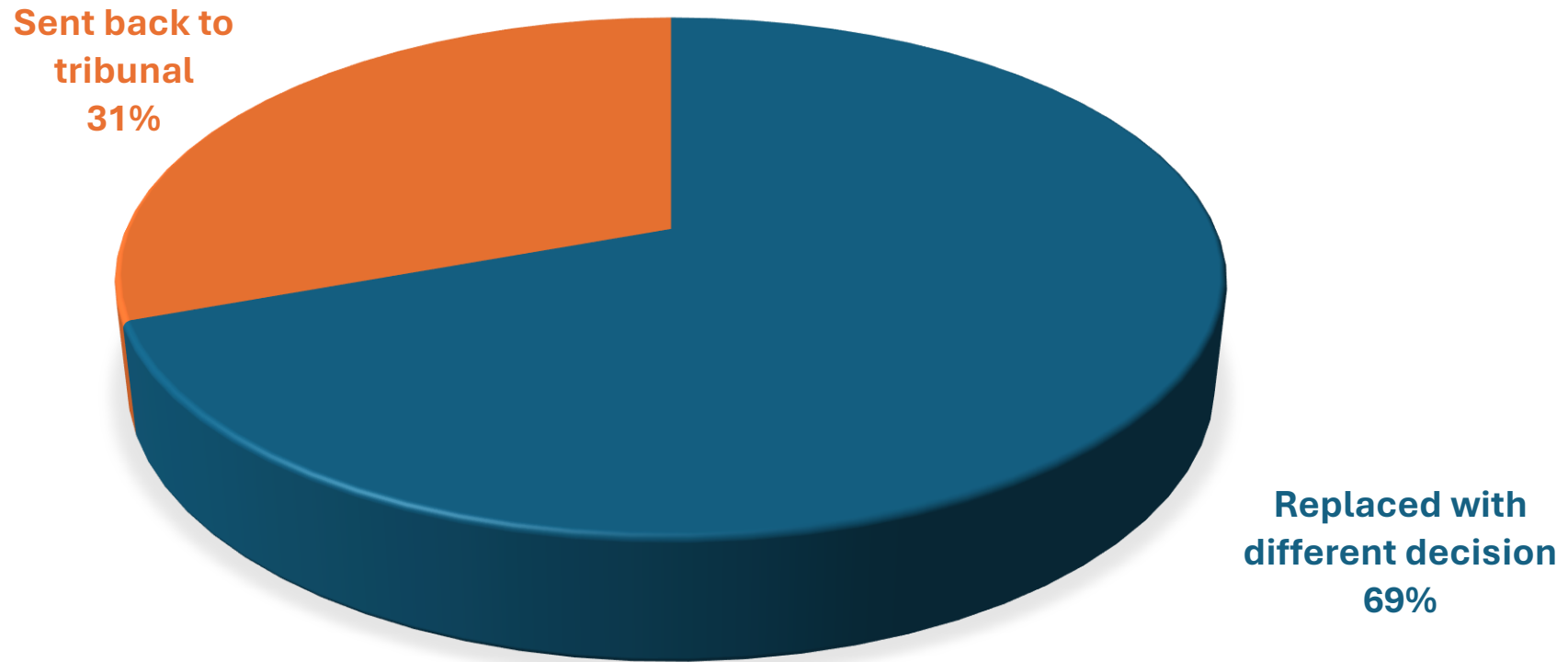


Source: Tokiso Research, March 2025 (unpublished)

What is the reason for review being successful?

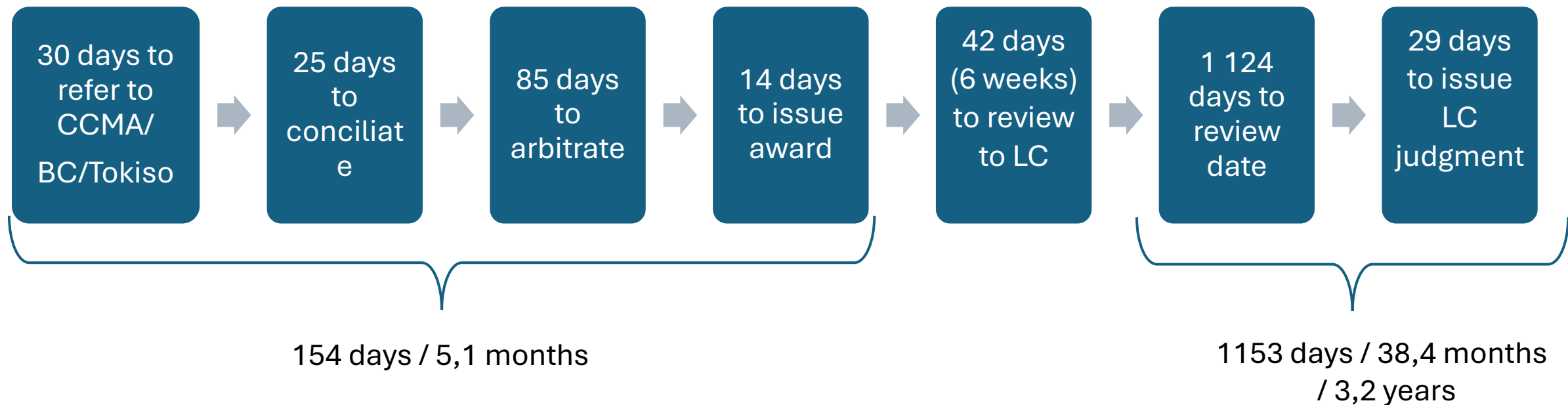
- Review test is (too) wide?
- Quality of awards?
- Poor process management?
- Reviews are more considered, especially now that security is required to stay enforcement?

2021-2024 JUDGMENTS: REMEDIES FOR SUCCESSFUL REVIEWS



Delays....

3.7 years (1349 days) from dismissal to review (2021-2024)



Source: Tokiso Research, March 2025 (unpublished)



Concluding questions

- With the budget cuts – can the CCMA efficiencies be maintained?
 - What are the stats on default awards – are employers pitching or ditching?
 - Are employers dismissing fairly?
 - Why are parties not using more efficient options such as section 188A?
 - Is the success rate of reviews high or acceptable?
 - Reviews – are the delays sustainable for parties?
 - Should our focus be (even more) on LC capacity?
 - Enforcement – is this the Achilles heel of our system?
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