

IN THE BUILDING INDUSTRY BARGAINING COUNCIL (CAPE OF GOOD HOPE)

Case Number: 20241009008

Date: 30 January 2025

In the matter between

Building Industry Bargaining Council (CAPE OF GOOD HOPE)

Applicant

And

Trustco Labour Solutions CC

Respondent

ARBITRATION AWARD

DETAILS OF THE HEARING AND REPRESENTATION

1. The arbitration hearing was scheduled for 30 January 2025 at 10h00 at the Building Industry Bargaining Council offices in Bellville. Neven Naidoo, the designated agent, represented the applicant, whilst the respondent was not present or represented. The record showed that the respondent was notified of the proceedings by email and SMS on 26 November 2024. The record further shows that the email address and mobile phone number provided are correct as last recorded by the Council.
2. The applicant submitted a bundle of documents, of which the contents were not disputed and accepted as evidence into the record unless otherwise indicated.

ISSUE TO BE DECIDED

3. The alleged contraventions of the Building Industry Bargaining Council's Collective Agreement, as set out in the details of Contraventions (Annexure A), are to be determined.

SUBMISSIONS OF THE PARTIES

4. Neven Naidoo said that a complaint was received from Salphathwa Jackson Mnu kwa holiday fund number 271894 on 9 October 2024, where it was found that the respondent was non-compliant with clauses 29 to 33 (failure to contribute to employee benefit funds) of the applicant's Collective Agreement. The respondent was informed by e-mail on 10 October 2024 of the contraventions of the applicant's Collective Agreement.
5. The respondent was issued with a compliance order number 20241009008 by email on 31 October 2024 concerning non-compliance with Clauses 29 to 33 (failure to contribute to employee benefit funds) of the applicant's Collective Agreement. The respondent indicated that employee benefits were issued from 13 March 2024 to 2 August 2024. The respondent was informed that no benefits were issued from 5 August 2024 to 4 October 2024. The respondent has failed to comply with the compliance order and the matter was referred to Arbitration. The applicant is seeking an award ordering the respondent to comply with the applicant's Collective Agreement and payment of the assessment for arrear benefits and arbitration fees. The complainants' bank statements were used to compile the assessment for benefits.

ANALYSIS OF EVIDENCE AND ARGUMENT

6. Section 138(7)(a) of the Act requires a Commissioner to issue an award with a brief reason for his decision. All evidence by the applicant was considered, but only facts that were pertinent to the fair determination of the dispute were assessed. I have considered all evidence in determining the dispute.
7. Having heard and considered the evidence submitted by the applicant, I am satisfied that the respondent is bound by the applicant's Collective Agreement and accordingly find that the respondent has contravened the provisions of Clauses 29 to 33, as referred to above in the submissions of the applicant.

AWARD

8. Having considered the submissions, I order the following:
 - a. The respondent is ordered to make payment to the applicant in respect of the amounts as specified in subparagraph 8 (b) and to submit to the applicant proper wage records for the period 13 March 2024 to 14 October 2024 within 14 days from receiving this award.

b. Clause Heading	Amount
Arrear employee benefits	R5 653.35
Interest arrears employee benefits	R 162.23
Fines	R1 413.34
Arbitration Fee	R5 008.50
Total:	R12 237.42

9. The respondent is ordered to pay the amount of R12 237.82 to the applicant within 14 days of receiving this award.



Date issued: 10 February 2025

BARGAINING COUNCIL COMMISSIONER: Stephan Cloete