

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

Case Number: 20241010001

Date: 31 January 2025

In the matter between

Building Industry Bargaining Council (CAPE OF GOOD HOPE)

Applicant

And

BW Renovations

Respondent

ARBITRATION AWARD

DETAILS OF THE HEARING AND REPRESENTATION

1. The arbitration hearing was scheduled for 31 January 2025 at 14h01 at the Building Industry Bargaining Council's offices in Somerset-West. Samkelisiwe Duma, the designated agent, represented the applicant, whilst the respondent was represented by Bryan Wakefield, the sole proprietor, who appeared via video conferencing facilities.
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 Main Agreement, as set out in the details of Contraventions (Annexure A), are to be determined.

SUBMISSIONS OF THE PARTIES

APPLICANT:

4. Samkelisiwe Duma submitted that following a routine inspection on 12 September 2024 at Gull Road, Pringle Bay, it was found that the respondent was in contravention of Clauses 6 (registration as an employer) 8 (registration of employees) and 29 to 33 (failure to contribute to employee benefit funds) of the applicant's Collective Agreement. The respondent was informed on 19 September 2024 via email of the contraventions of the Collective Agreement.
5. The respondent was issued with a compliance order number 20241010001 by email on 10 October 2024 concerning non-compliance with clauses 6 (registration as an employer), 8 (registration of employees), and 29 to 33 (failure to contribute to employee benefit funds) of the applicant's Collective Agreement. 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 and payment of arbitration fees.

RESPONDENT:

6. Bryan Wakefield submitted that he is retired and merely assisted the owner of the house in the capacity of a project manager. He obtained the necessary staff on behalf of the owner to complete the job, and he paid the wages in person to the staff, which was paid by the owner into his bank account.

ANALYSIS OF EVIDENCE AND ARGUMENT

7. 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.
8. Having heard and considered the evidence submitted by the parties, 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 6, 8, and 29 to 33, as referred to above in the submissions of the applicant.
9. The respondent could not provide any evidence that he was not the employer. At least, I would have expected the respondent to call all the employees as witnesses to confirm his version.

AWARD

10. Having considered the submissions, I order the following:

- a. The respondent is ordered to make payment to the applicant in respect of the amount as specified in subparagraph 8.1, and to submit to the applicant proper wage records and or time sheets for the period 1 November 2023 to 10 October 2024 and to register as an employer together with all employees within 14 days from receiving this award.

8.1	Clause Heading	Amount
	Arbitration Fee	R5 077.87
	Total:	R5 077.87

11. The respondent is ordered to pay the amount of R5 077.87 to the applicant within 14 days of receiving this award.



BARGAINING COUNCIL COMMISSIONER: Stephan Cloete

Date issued: 11 February 2025