

**BUILDING INDUSTRY BARGAINING COUNCIL
(CAPE OF GOOD HOPE)**

Case Number: 20230613002

Date: 1 September 2023

In the matter between

Building Industry Bargaining Council

Applicant

And

Mr. J A Olivier t/a Ironwood

Respondent

ARBITRATION AWARD

DETAILS OF THE HEARING AND REPRESENTATION

1. The arbitration hearing was scheduled for 1 September 2023 at the BIBC's offices in Paarl. The applicant was represented by the designated agent Mr. N Jansen and the respondent was represented by the owner Mr. J Olivier (sole proprietor).
2. The applicant further submitted a bundle of documents which was 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. Jansen submitted as part of their documentary evidence that the respondent is not complying with the Council's Collective Agreement. Following a routine inspection on 3 May 2023 at House Nazar, Franschoek, the respondent was issued a compliance order on 13 June 2023 relating to employee benefits and wage records. The respondent informed him that he had no intention to become compliant.

RESPONDENT:

5. Olivier submitted that it is not disputed that the business has not complied with the applicant's Collective Agreement. He said that he is not going to comply with the applicant's collective agreement as the business is not in a financial position to comply with the applicant's collective agreement.

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 parties 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 parties, I am satisfied that the respondent is bound by the applicant's Collective Agreement and accordingly find that the respondent has contravened the Collective Agreement provisions relating to employee benefits and wage records.
8. The respondent is prejudicing other employers who are complying with the applicant's Collective Agreement under difficult economic circumstances.

AWARD

9. Having considered the submissions, I order the following:
 - a. The respondent is ordered to submit to the applicant proper wage records and or time sheets for the period 1 November 2022 to 3 May 2023 within 14 days from receipt of this award.

A handwritten signature in black ink, consisting of several overlapping, slanted strokes that form a stylized, somewhat abstract shape.

BARGAINING COUNCIL COMMISSIONER: S CLOETE