

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

Case Number: 20230619027

Date: 20 October 2023

In the matter between

Building Industry Bargaining Council

Applicant

And

R Ton Construction and Projects

Respondent

ARBITRATION AWARD

DETAILS OF THE HEARING AND REPRESENTATION

1. The arbitration hearing was scheduled for 20 October 2023 at the Building Industry Bargaining Council's offices in Paarl. The applicant was represented by the designated agent Mr. N Jansen, whilst the respondent was represented by its owner Mr. Rammington Mhlanga.

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. Mr. N Jansen submitted that it was discovered that the respondent is not complying with the Council's Collective Agreement following a routine inspection on 23 February 2023 at Erf 1199; Val De Vie Estate; Paarl. The

main contractor Dormehl Construction purchased benefits on behalf of the respondent, however, these benefits purchased were for employees who were not found during the day of the routine inspection. The employee whose benefits were purchased was working at Erf 1199, Val De Vie, but was not present when the Agent was on site. Despite giving the respondent a platform to discuss the issues the respondent was not addressing the issues and the respondent was issued with a compliance order on 19 June 2023 relating to employee benefits, wage records, registration as an employer, and registration of employees.

RESPONDENT:

5. Mr. Rammington submitted that he agrees with the applicant's summary of events. He said that he was unable to register the employees as they were all foreigners and did not have their correct personal details. He said that he attempted to register some employees but was not assisted by the applicant's employer support department in Bellville, despite sending various e-mails.

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 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, wage records, registration as an employer, and of employees.
8. The respondent had to ensure before employing the employees that he had all their details. It is an impossible task to obtain these details afterward.

AWARD

9. Having considered the submissions, I order the following:
 - a. The respondent is ordered to submit to the applicant proper wage records for the period 1 November 2022 to 23 February 2023 and to register as an employer together with employees within 14 days of receiving this award.

Signed and dated in Paarl on this 20th day of October 2023.

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

BARGAINING COUNCIL COMMISSIONER: S CLOETE