

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

Case Number: 20230606007

Date: 18 September 2023

In the matter between

Building Industry Bargaining Council

Applicant

And

Alert Developments (Pty) Ltd

Respondent

ARBITRATION AWARD

DETAILS OF THE HEARING AND REPRESENTATION

1. The arbitration hearing was scheduled for 18 September 2023 at 9h45 at the Building Industry Bargaining Council's offices in Bellville. Ms. Bronwyn Fredericks, the designated agent represented the applicant, whilst Ms. Lynne Strydom, an employee of the respondent, Alert Developments (Pty) Ltd, attended the proceedings virtually.

ISSUE TO BE DECIDED

2. 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

3. The agent, Ms. Fredericks, submitted that the activities of the respondent fall within the definition of the building industry. She submitted that on 31 May 2023, the respondent contravened clauses 31 to 53 of the applicant's main collective agreement, relating to employee benefits, for the period 1 November 2022 to 6 June 2023.
4. A site inspection was conducted on 2 May 2023 at Engen, Wellington Road, Durbanville. On the same day, an email was sent to the respondent detailing the inspection conducted. On 1 June 2023, the main contractor sent a BCCEI certificate via email to the Council, indicating that the respondent is registered with the Bargaining Council for the Civil Engineering Industry. A compliance order was issued on 6 June 2023 for employee benefits. On 7 June 2023, Ms. Fredericks sent an email to BCCEI enquiring whether the employees on-site were receiving benefits. On 20 June 2023 when Ms. Fredericks called the BCCEI, she was informed by Agent Mrs. Michelle Van der Berg that the respondent had never purchased benefits at the BCCEI. She then contacted the respondent on 21 June 2023 regarding the inspection and requested wage records. An email was then sent. No feedback was received from the respondent. The main contractor had confirmed that the respondent worked on the particular site. To date, no wage records have been submitted by the respondent.
5. Ms. Strydom submitted on behalf of the respondent that she appeared on behalf of the company director who was sick. She indicated that had she been aware of the request for wage records, she would send it to the Council. She committed to sending it without delay.
6. Ms. Fredericks indicated that she requires wage records, for the period 1 November 2022 to 6 June 2023, to calculate employee benefits. The employer will then be required to purchase benefits in respect of the wage records. Ms. Strydom submitted that she would submit the requested record as soon as possible.

ANALYSIS OF THE EVIDENCE AND ARGUMENT

7. After considering the submissions by the applicant, I am satisfied that the respondent is bound by the Main Collective Agreement of the Council. The respondent is thus required to contribute to the employee benefit funds as per clauses 31 to 53.

AWARD

8. Having considered the submissions, I order the following:
 - a. The respondent is ordered to submit its wage records and/or time sheets to the Applicant (Building Industry Bargaining Council) for the period of 1 November 2022 to 6 June 2023 within 14 days of receiving this award.



Date issued: 2 October 2023

BARGAINING COUNCIL COMMISSIONER: