

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

**Case Number: 20230606008**

**Date: 18 September 2023**

**In the matter between**

**Building Industry Bargaining Council**

**Applicant**

**And**

**Creative Aluminum and Glass Projects (Pty) Ltd**

**Respondent**

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**ARBITRATION AWARD**

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**DETAILS OF THE HEARING AND REPRESENTATION**

1. The arbitration hearing was scheduled for 18 September 2023 at 11h00 at the Building Industry Bargaining Council's offices in Bellville. Ms. Bronwyn Fredericks, the designated agent represented the applicant, whilst the respondent, Creative Aluminum and Glass Projects (Pty) Ltd, failed to attend the proceedings. Ms. Fredericks indicated that she dealt with the respondent's administrator, Ms. Shakira Jacobs. She informed her that she would send her a link to attend the proceedings virtually, which she did. Ms. Jacobs never logged into the meeting link. She also failed to pick up her phone, after Ms. Fredericks attempted to call her. The record showed that the respondent was timeously notified of the proceedings by email and SMS. The record further shows that the email address and cell phone number provided are correct as last recorded by the Council.

## **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 2 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. An email was sent to the respondent on 22 May 2023 detailing an inspection conducted at Engen, Wellington Road, Durbanville. On 31 May 2023, the respondent sent an email, stating that they make use of subcontractors. The Dispute Prevention Department of the Council indicated to the respondent that they needed to submit wage records and that they must make use of compliant subcontractors. The respondent then requested employee registration forms. On 1 June 2023, Ms. Fredericks emailed the respondent stating that employee registration and benefits are done via the EESI portal. On 2 June 2023, the Dispute Prevention Services sent another email to the respondent assisting them with access to the portal. On the same day, the respondent sent back the employee registration forms and requisitions for employee benefits. The respondent also sent an email about the requisitions for May 2022 (for one day) and an email for returns of February 2023, one week in April 2023, and June 2023.
5. On 4 June 2023, the respondent was informed to capture benefits on the portal. Ms. Jacobs responded that she was in contact with the office of the Council concerning training. A compliance order was issued on 6 June 2023, for contravention of clauses 31 to 53 of the Main Collective Agreement, relating to employee benefits.
6. On 21 June 2023, Ms. Jacobs told Ms. Fredericks she would get back to her the next day. Ms. Fredericks requested wage records because benefits were only purchased for February 2023 one week in April 2023 and June 2023. The

respondent indicated that on the day of the inspection, the employees were only on-site for less than an hour, and thus they never received any benefits. Ms. Fredericks also found that an employee, Munsif Leo (holiday fund number – 488565) never received any benefits because he never signed any registration forms to receive benefits. On 27 June 2023, Ms. Fredericks emailed Ms. Jacobs, indicating that she and the Dispute Prevention Services section requested wage records; and that the respondent must provide details of subcontractors. On 28 June 2023, the respondent indicated that Munsif Leo's details were captured on the portal and that benefits would be paid at the end of the month.

7. Ms. Fredericks further submitted that the respondent failed to comply with the compliance order. During the week before the arbitration, the respondent sent an Excel spreadsheet with wage slips. Her concern was that the respondent was found on site in May 2023, that four employees were found on site; and that only one employee (Munsif Leo) received benefits. When she looked at the wage slips, it showed that most employees never received wages from 28 April 2023 until 5 May 2023 although they were on site.
8. Ms. Fredericks indicated she requested wage records to scrutinize the information sent by the respondent about what the Council had on record. She submitted that the company must provide bank statements in terms of payments made to employees in respect of 1 November 2022 to 6 June 2023, because according to the information provided by the employees, they do not sign any attendance registers.

## **ANALYSIS OF THE EVIDENCE AND ARGUMENT**

9. 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**

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

- a. The respondent is ordered to submit its bank statements, wage records, and/or time sheets to the Applicant (Building Industry Bargaining Council) from 1 November 2022 to 6 June 2023 within 14 days of receiving this award.

A handwritten signature in black ink, consisting of stylized, overlapping letters that appear to be 'NB' or similar initials.

Date issued: 2 October 2023

BARGAINING COUNCIL COMMISSIONER: