

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

**Case number: 20230510002**

**Date: 09 October 2023**

**In the matter between**

**Building Industry Bargaining Council**

**Applicant**

**and**

**C and C Blinds and Welders**

**Respondent**

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**ARBITRATION AWARD**

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**DETAILS OF THE HEARING AND REPRESENTATION**

1. The arbitration hearing was scheduled for 09 October 2023 at 12h30 at the Building Industry Bargaining Council's offices in Bellville. Mr. Allister Segrys, the designated agent, represented the applicant, whilst the respondent, C and C Blinds and Welders, were represented at the proceedings by Mr. Abrahams. The complainant, Mr. Johaar, was present as well.

**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**

3.1 Mr. Segrys stated that on 10 May 2023, Mr. Johaar (holiday fund no. 454034) had complained about outstanding payments for November 2022 (R2500.00) and March 2023 (R4500.00). It was established that the respondent had failed to comply with the Council's Main Collective Agreement by failing to pay full wages. A compliance order was emailed to the respondent on 31 July 2023, but the respondent has not responded to this. The applicant stated that the respondent must pay the outstanding wages, purchase benefits, and submit

the wage records for the period 01 November 2022 to 10 May 2023. The wage records are only needed for staff who work with aluminum.

3.2 The respondent stated that Mr. Johaar is a subcontractor and brought his people to the job. But people had stolen on the job and the complainant had been drunk on duty as well. He has a register where he keeps the names of the workers on site and pays them directly.

3.3. The complainant stated that he was short-paid. He was not a subcontractor and never entered into a contractual agreement as such.

## **ANALYSIS**

4. The respondent submitted that the complainant was a subcontractor and therefore was not entitled to the claimed payments. However, the evidence does not suggest this. There was no contractual agreement between the respondent and Mr. Johaar. The respondent further confirmed keeping track of the workers in his register and paying them directly. He further did not dispute that there were outstanding payments. It seems that because of misconduct issues, payments were held back. This is not the correct way of dealing with instances of misconduct. Considering the respondent's failure to prove that the applicant's claim for non-compliance is defective, I accordingly find that the respondent has contravened the provisions of the Council's Main Collective Agreement.

## **AWARD**

Having considered the submissions, I order the following:

- 5.1 The respondent is hereby ordered to submit the wage records/time sheets for the period 01 November 2022 to 10 May 2023 for the workers working with aluminum within 14 days of receiving the award.
- 5.2 The respondent is hereby ordered to pay the outstanding wages amounting to R7000.00 within 14 days of receiving the award.

Signed and dated in Bellville.

Date issued: 12 October 2023

A handwritten signature in black ink, consisting of a large, stylized initial 'I' followed by a series of loops and a final vertical stroke.

Bargaining Council Commissioner: Ilse de Vlieger-Seynhaeve