



**IN THE PUBLIC SERVICE CO-ORDINATING BARGAINING COUNCIL
HELD AT BLOEMFONTEIN**

CASE NO: PSCB 240-15/16

PSA obo J J VERMEULEN

APPLICANT

and

DEPARTMENT OF HEALTH: FREE STATE

RESPONDENT

ARBITRATION AWARD

DATE OF ARBITRATION	:	9 NOVEMBER 2015
DATE OF AWARD	:	10 NOVEMBER 2015
VENUE	:	KRAMER, WEIHMANN & JOUBERT ATTORNEYS BLOEMFONTEIN
ARBITRATOR	:	CINDY DICKENS
ISSUE	:	INTERPRETATION AND APPLICATION OF A COLLECTIVE AGREEMENT, RESOLUTION 14 OF 2002

1. DETAILS OF HEARING AND REPRESENTATION

- 1.1 The abovementioned arbitration was held on the 9th of November 2015 at the offices of Kramer, Weihmann & Joubert Attorneys, 24 Barnes Street, Westdene, Bloemfontein.
- 1.2 The Applicant, J J Vermeulen, was represented by Mrs. Sharon Els, an Official of PSA. The Respondent, Department of Health: Free State, was represented by Mr. Molokoane.
- 1.3 The arbitration proceedings were digitally recorded.

2. ISSUE TO BE DECIDED

- 2.1 The issue which I was called upon to consider was the interpretation of Resolution 14 of 2002, relating to the response to a grievance.

3. BACKGROUND TO THE DISPUTE

- 3.1 The Applicant lodged a grievance on the 1st of December 2014.
- 3.2 The Respondent failed to respond to the grievance within the prescribed 30 (THIRTY) day time limit. Subsequently, the Applicant lodged a formal dispute in terms of Section 24 (2) of the Labour Relations Act, which conciliation was held on the 5th of August 2015. The Applicant then filed a request for arbitration on the 17th of August 2015.

4. SURVEY OF EVIDENCE AND ARGUMENT

- 4.1 The Applicant's argument boils down to the fact that the Respondent failed to comply with Resolution 14 of 2002, being no response to the Applicant's grievance.
- 4.2 Mr. Molokoane agrees that no response was given to the Applicant's grievance.
- 4.3 Resolution 14 of 2002 deals with the handling of grievances in the public sector. In terms of the said Resolution it is incumbent on the Respondent to

respond to an employee's grievance in writing within 30 (THIRTY) working days. The Respondent simply failed to follow suit.

- 4.4 The purpose of the said Resolution is simply to attend to internal grievances in a speedy manner. I believe that the underlying reasons therefore are obvious, it is to create harmony in the workplace. It is irrelevant whether the response is acceptable to the employee. If the latter is not satisfied with the response / outcome of the grievance, then the employee can pursue the matter further through other means. Not all grievances will be arbitrable. The Council must determine whether it has the necessary jurisdiction to entertain the dispute through conciliation / arbitration.
- 4.5 I believe the Respondent had ample time to respond to the Applicant's grievance, but failed to respond for no apparent reason. As pointed out, the failure to take any positive steps in this regard can only cause disharmony in the workplace. Equally, one cannot ignore the fact that both Respondent and Council operate on tax payers' money. By frustrating this dispute, this causes unnecessary costs.

5. AWARD

- 5.1 The Respondent failed to comply with the prescriptive timeframes contained in Resolution 14 of 2002.
- 5.2 The Respondent is ordered to respond to the Applicant's grievance in writing within 7 (SEVEN) days after date of receiving this award.
- 5.3 The Respondent is further ordered to pay the Council's costs for the arbitration being the arbitrator's fee in the sum of R 1 000-00 (ONE THOUSAND RAND) and the arbitration award fee in the amount of R 1 000-00 (ONE THOUSAND RAND). The costs must be paid to the Council within 14 (FOURTEEN) days of signature of this award.

SIGNED AT BLOEMFONTEIN ON THIS 10th DAY OF NOVEMBER 2015



C L DICKENS

PSCBC Arbitrator