



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

CASE NO: PSCB 509-12/13

PSA obo MEMBERS

APPLICANT

and

DEPARTMENT OF POLICE, ROADS AND TRANSPORT: FREE STATE

RESPONDENT

ARBITRATION AWARD

DATE OF ARBITRATION	:	1 JULY 2013
DATE OF AWARD	:	8 JULY 2013
VENUE	:	PSA BLOEMFONTEIN
ARBITRATOR	:	CINDY LEE DICKENS
ISSUE	:	INTERPRETATION AND APPLICATION OF A COLLECTIVE AGREEMENT, RESOLUTION 1 OF 2007 & 3 OF 1999

1. DETAILS OF HEARING AND REPRESENTATION

- 1.1 The abovementioned Arbitration was held on the 1st of July 2013 at the Offices of the Applicant in Bloemfontein.
- 1.2 The Applicant, PSA, was represented by Mr. Greeff. The Respondent, Department of Police, Roads and Transport: Free State, was represented by Mr. Leiee.

1.3 The proceedings were digitally recorded.

2. ISSUE TO BE DECIDED

2.1 The issue which I was called upon to consider was the interpretation and application of Resolution 1 of 2007 read together with Resolution 3 of 1999, relating to the approval of the Overtime Policy.

3. SURVEY OF EVIDENCE

3.1 The parties' representatives made the following legal submissions. The facts are as follows:

3.2.1 **Mr. Greeff** held that the dispute arose out of Resolution 3 of 1999 and Resolution 1 of 2007. He held that both these Collective Agreements places an obligation on an Employer to negotiate and reach an agreement in terms of overtime. This will include overtime worked, how it is going to be regulated and remunerated within a specific sector within the public service.

3.2.2 He held that the Dept of Police, Roads and Transport: Free State, placed an overtime policy on the Provincial Chamber, just informing unions that this is the new Overtime Policy. This was in contravention of Resolution 3 of 1999 and Resolution 1 of 2007, as no process of negotiation was entered into prior to the implementation of the Overtime Policy.

3.2.3 He requested that the Department of Police, Roads and Transport: Free State, be ordered to withdraw the Overtime Policy and to request the Employer to place it on the Provincial Task Team for Police, Roads and Transport or Provincial Chamber of that Department to place it on the agenda point for negotiations and reaching of an agreement. Mr. Greeff held that the relevant Clause for Resolution 3 of 1999 is VII Clause 3.1. The relevant Clause in Resolution 1 of 2007 is Clause 9.

3.3.1 **Mr. Leiee** held that the matter was at the DCC level where they are supposed to ask labour to give their inputs for the policy. He held that after this it is supposed to be ratified by the Provincial Chamber. He held that the problem came in where the policy was not negotiated with labour and was merely approved by one of his seniors.

3.3.2 He stated that it is undisputed that the Department of Police, Roads and Transport: Free State, failed to comply with Resolution 3 of 1999.

4. ANALYSIS OF EVIDENCE AND ARGUMENT

4.1 The facts are as follows:

4.2 Clause 3.1 of Chapter VII of Resolution 3 of 1999 reads as follows:

“3.1 Before an executing authority may authorise compensation for overtime, she or he shall negotiate a written policy for her or his department, determining

(a) under what conditions the department shall provide compensation for overtime work,

(b) what kind of compensation the department shall provide, and

(c) categories of employee to whom the department shall not provide compensation for overtime.”

4.3 It is clear that this Clause places an obligation on an executing authority to negotiate a written policy for her or his department, relating to overtime.

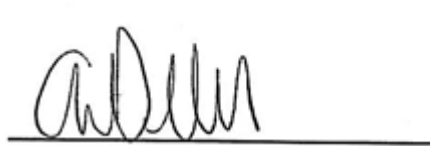
4.4 It is undisputed that no such negotiations were entered into with PSA prior to the approval of the current Overtime Policy implemented in the Department of Police, Roads and Transport: Free State.

- 4.5 It is undisputed that the Department of Police, Roads and Transport: Free State, has failed to comply with the provisions of Clause 3.1 of Chapter VII of Resolution 3 of 1999.

5. AWARD

- 5.1 The Respondent, Department of Police, Roads and Transport: Free State, has failed to apply the provisions of Clause 3.1 of Chapter VII of Resolution 3 of 1999 correctly.
- 5.2 The Department of Police, Roads and Transport: Free State, is hereby ordered to withdraw their current policy on overtime, with immediate effect.
- 5.3 The Respondent, Department of Police, Roads and Transport: Free State, is hereby ordered to place the Overtime Policy as an agenda point on the Provincial Chamber / Task Team, for an agreement to be reached with labour including PSA.
- 5.4 No order as to costs is made.

SIGNED AT BLOEMFONTEIN ON THIS 8th DAY OF JULY 2013

A handwritten signature in black ink, appearing to read 'C L Dickens', is written over a horizontal line. The signature is stylized with cursive-like loops.

C L DICKENS
PSCBC Senior Arbitrator