



PUBLIC SERVICE CO-ORDINATING BARGAINING COUNCIL

ARBITRATION AWARD

Case Number: PSCB328-13_14
Senior Commission / Panellist: Martinus van Aarde
Date of Award: 30 October 2013

In the **MATTER** between

PSA obo H Scheepers

(Applicant)

and

Department of Education (FS)

(Respondent)

Applicant's representative: Mr. A. J. Greeff

Applicant's address: C/o: PSA

PO Box 7673

BLOEMFONTEIN, 9300

Telephone: (051) 403 1300

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Respondent's representative: Absent

Respondent's address: Department of Education

BLOEMFONTEIN

Telephone: (051) 404 4241

Telefax: (051) 404 4388

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1. Details of hearing / representation

The case was set down for an arbitration hearing on 30 October 2013 at Bloemfontein, PSA Offices. Mr. A. J. Greeff: Official PSA represented the Applicant. The Respondent (DOE) failed to attend the proceedings.

2. Issue(s) to be decided

This is an application in terms of the **Labour Relations Act 66/1995, section 24(2)(5)** *re* the interpretation/ application of a collective agreement, with specific reference to Resolution 14/2002: (Grievance Procedure).

3. Background to dispute

3.1 The Applicant (a Learner–Facilitator deployed at the Reitz-office) lodged a grievance on 17 December 2012 *re* unpaid S & T/fuel-claims for the period April 2012 to June 2013 (Annexure A.1-2).

3.2 The Respondent failed to respond to the said grievance within the prescribed time limits (30 days). Subsequently, the Applicant lodged a formal dispute (LRA 7.11) on 21 August 2013 in terms of **section 24(2)/(5)/LRA '95**. The case was set down for a conciliation hearing on 12 September 2013. The dispute was declared unresolved and a certificate of non-resolution was issued in terms of **section 135(5)/LRA '95**. The Applicant then filed a Request for Arbitration on (LRA 7.13) on 19 September 2013.

4. Survey of evidence / argument

4.1 Applicant's argument simply boils down to the fact that the Respondent failed to comply with Resolution 14/2002 – no response to the Applicant's grievance dated 7 December 2012/claims only partly paid (Annexure A).

4.2 The Respondent simply failed to attend these proceedings despite various unsuccessful calls to the HR Office to enquire about the reason for their absence.

4.3 Resolution 12/2002 deals with the handling of grievances in the public sector. In terms of the said Resolution (being a collective agreement within the context of **section 23/LRA '95**) it is incumbent on the Respondent to respond to an employee's grievance in writing within 30 working days. 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 the underlying reasons therefore are quite obvious – *inter alia* 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 (e.g. unfair labour practice doctrine (**section 186/LRA**) or in terms of the **Employment Equity Act 55 1998**). However not all grievances will be arbitrable – the Council must determine whether it has the necessary jurisdiction to entertain the dispute through conciliation/arbitration.

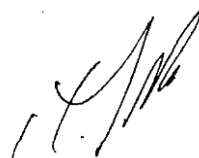
- 4.5 I believe the Respondent had ample time to respond to the Applicant's grievance but failed to respond for no apparent reason. As pointed out, the failure to take any positive steps in this regard can only cause disharmony in the workplace considering the fact that the Applicant incurred the expenses on behalf of the Respondent in executing her duties. Equally, one cannot ignore the fact that both the Respondent and Council operate on tax-payers money. By frustrating the dispute causes unnecessary costs.

5. Award

In case PSCB328-13_14 the following award is rendered—

- 5.1 The Respondent (Department of Education) failed to comply with the prescriptive timeframes contained in Resolution 14/2002.
- 5.2 The Respondent is ordered to pay the outstanding amount (R2,733-09) as per Annexure A to the Applicant on or before 30 November 2013.
- 5.3 The Respondent is furthermore ordered to pay the wasted cost for the arbitration proceedings to the total amount of R2, 757-55 (cost for half a day).
- 5.4 Said costs to be paid to the Applicant and the Council respectively on or before 30 November 2013 if not, the Respondent is also ordered to pay interest on the outstanding amount calculated at a rate of 1,5% per month until final date of payment.

Signature:



Senior Arbitrator: **Martinus van Aarde**