



AWARD

YOUR REFERENCE NUMBER FOR THIS CASE:

Please quote this reference number when communicating. It will assist us in providing information more quickly and efficiently.

PSCB373-12/13

FOR ATT:	C Fandie	FOR ATT:	R Oppelt
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Referring party details PSA obo Shuping, DP PO Box 7673 Bloemfontein 9300 Tel: 051 403 1300 Fax: 051 403 1315/19	Responding party details Department of Home Affairs - National Private Bag X114 Pretoria 0001 Tel: 012 810 7208 Fax: 086 623 6286 / 086 625 0312
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17 March 2017

Dear Sir/Madam,

Matter Between: **PSA obo Shuping, DP**
and: **Department of Home Affairs - National**
Issue: **24(2), [24(5)] - Collective agreement - interpretation or application (Res 14 of 2002)**

Please find attached award for this matter.

Yours sincerely,

Tracey Mokoena

Case Management Officer

Case Number: PSCB373-12/13



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

CASE NO: PSCB 373-12/13

PSA obo D P SHUPING

APPLICANT

and

DEPARTMENT OF HOME AFFAIRS: NATIONAL

RESPONDENT

DEFAULT ARBITRATION AWARD

DATE OF ARBITRATION	:	18 FEBRUARY 2013
DATE OF AWARD	:	20 MARCH 2013
VENUE	:	PSA 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 18th of February 2013 at the Offices of the PSA in Bloemfontein.
- 1.2 The Applicant, Mr. Shuping, was represented by Clement Fandie, an Official of PSA. The Respondent, Department of Home Affairs: National, was represented by John Masilela.

1.3 The parties requested to file Written Submissions as follows:

- Applicant before or on the 25th of February 2013
- Respondent before or on the 4th of March 2013
- Applicant before or on the 8th of March 2013

1.4 The Applicant submitted their application. No submissions were received from the Respondent party.

2. ISSUE TO BE DECIDED

2.1 The issue which I was called upon to consider is whether the Respondent has contravened the provisions of Resolution 14 of 2002, and if it has been contravened, to grant the appropriate relief.

3. SURVEY OF EVIDENCE

3.1 Submissions on behalf of the Applicant:

3.1.1 **Mr. Fandie** held that on the 13th of July 2012 the Applicant registered a grievance with the Employer regarding his performance pay progression for 2010/2011 which the Respondent has failed to pay.

3.1.2 The Grievance Rules provide that the Respondent investigates, responds and resolves the grievance within 30 (THIRTY) days of receipt of the grievance. He argued that to date no response has been received.

3.1.3 He held that Resolution 14 of 2000 states that an employer is obliged to deal with the grievance within 30 (THIRTY) days.

3.1.4 The Applicant referred a formal dispute to the Council on the 13th of September 2012 and the dispute remained unresolved at the Conciliation on the 24th of October 2012.

- 3.1.5 He stated that they are requesting that the Respondent be ordered to respond to the Applicant's grievance.

3.2 Submissions on behalf of the Respondent:

- 3.2.1 **Mr. Masilela** failed to file their opposing papers in totality.

4. ANALYSIS OF EVIDENCE AND ARGUMENT

- 4.1 Without repeating the Applicant's submissions, I can not find any justification in the Respondent's persistence in not providing a response to the Applicant's grievance.
- 4.2 For 8 (EIGHT) months the Applicant has waited for a response to his grievance in vain. Needless to mention that the Applicant need not be provided with a favourable response, all they seek is a response.
- 4.3 It is the conduct of such Respondents, who unnecessarily clog the Council's case roll and make it to incur unwarranted costs in appointing Commissioners to arbitrate such straight forward disputes. In fact, this should not be a dispute at all, as all that is required is for the Respondent to provide the Applicant with a response.
- 4.4 I am of the view that awarding costs against the Respondent would be appropriate considering all the circumstances of this case.

5. AWARD

I make the following award:

- 5.1 The Respondent, Department of Home Affairs: National, must provide the Applicant, D P Shuping, with a response to his grievance within 5 (FIVE) working days from receipt of this Award.

5.2 The Respondent, Department of Home Affairs: National, is further ordered to pay the Council's costs for the Arbitration being the Arbitrator's fee in the sum of R 2 000-00 (TWO THOUSAND RAND) and the Arbitration fee in the amount of R 500-00 (FIVE HUNDRED RAND). The costs must be paid to the Council within 14 (FOURTEEN) days of signature of this Award.

SIGNED AT BLOEMFONTEIN ON THIS 20th DAY OF MARCH 2013

A handwritten signature in dark ink, appearing to read 'C L Dickens', is written over a horizontal line.

C L DICKENS

PSCBC Senior Arbitrator