



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

CASE NUMBER: PSCB 546-09/10

In the matter between:

PSA obo SCHOLTZ & ANOTHER

APPLICANTS

and

DEPARTMENT OF AGRICULTURE

RESPONDENT

ARBITRATION AWARD

1. DETAILS OF HEARING AND REPRESENTATION

1.1 The hearing was held on 13 September 2010.

1.2 Mr. Greef, an Official of the PSA represented the Applicants and the Respondent notwithstanding due notice for the hearing failed to attend it.

1.3 May I mention that Mr. Norval of the Respondent was present during the proceedings but in an unofficial capacity as he averred that this matter and PSCB 523-08/09 were being handled by the local State Attorney's office.

1.4 Parties were directed to file Heads of Argument on 17 September 2010.

2. **THE ISSUE TO BE DECIDED**

2.1 The non-compliance by the Respondent with Resolution 14 of 2002.

3. **SURVEY OF THE ARGUMENT**

3.1 **THE APPLICANT'S CASE**

3.1.1 It is argued on behalf of the Applicants that the conciliation in this matter was held on 14 May 2010.

3.1.2 The Applicants had lodged their grievance on 17 November 2008 which was received by Adv. Peach, the Director: Legal Services.

3.1.3 A pre-arbitration meeting was held on 19 July 2010.

3.1.4 It is trite that in terms of the Resolution the Respondent had to investigate the grievance and provide the Applicants with a response thereto within 30 days of receipt of the grievance.

3.1.5 Not only did the Respondent not attend the arbitration proceedings but in almost 2 years it has still not responded to the Applicants' grievance.

3.1.6 In the circumstances costs should be awarded against the Respondent.

4. **ANALYSIS OF THE ARGUMENT:**

4.1 Without repeating the Applicants' submissions, I cannot find any justification in the Respondent's persistence in not providing a response to the Applicants' grievance.

4.2 For almost 2 years the Applicants have waited for a response in vain. Needless to mention that the Applicants are not expecting a response that will

be favourable to their course, all that they seek is nothing but a response (any for that matter).

4.3 It is the conduct of such Respondents like in the present case, who unnecessarily clog the council's case roll and make it to incur unwarranted costs in appointing panelists 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 Applicants with a response.

4.4 I concur with the Applicants 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 must provide the Applicants with a response to their grievance within 5 (five) working days from receipt of this award.

5.2 The Respondent is further to pay council's costs for the arbitration being the Arbitrator's daily fee in the sum of R1 850.00 (excluding VAT) and the arbitration fee in the sum of R650.00 (excluding VAT).

DATED AT BLOEMFONTEIN ON THIS THE 21st DAY OF SEPTEMBER 2010.

**J B MTHEMBU
PSCBC PANELIST**