



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

CASE NO: PSCB 311-14/15

PSA obo L E LEKGELA

APPLICANT

and

DEPARTMENT OF HEALTH: FREE STATE

RESPONDENT

ARBITRATION AWARD

DATE OF ARBITRATION : 17 OCTOBER 2014
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VENUE : DEPT. OF HEALTH 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 17th of October 2014 at the offices of Kramer, Weihmann & Joubert Attorneys, 24 Barnes Street, Westdene, Bloemfontein.
- 1.2 The applicant, Mr. Lekgela, was represented by Mr. Greeff, an official of PSA. The respondent, Department of Health: Free State was represented by Mr. Van Wyk.
- 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 11th of March 2013.
- 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 on the 8th August 2014 in terms of Section 24 (2) of the Labour Relations Act. The applicant then filed a request for arbitration on the 29th of August 2014.

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. Van Wyk held that the matter was being dealt with by Mr. Gumede, his colleague. Attempts were made to get hold of Mr. Gumede on the date of the arbitration, to no avail. He opted to attend the proceedings as a matter of respect to the Council. He agreed that an order be made to the effect that the Department of Health respond to the grievance within 7 (SEVEN) days. He

undertook to report the matter to his principals to instruct Mr. Gumedede to respond to the grievance as ordered.

- 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 service of this award.
- 5.3 I have seriously considered to order costs against the respondent, but decided to rather caution the latter to attend to grievances in a prompt manner.

SIGNED AT BLOEMFONTEIN ON THIS 17th DAY OF OCTOBER 2014

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

C L DICKENS

PSCBC Senior Arbitrator