



# DEFAULT AWARD

Panelist: John Cheere Robertson  
Case No.: PSCB145-14/15  
Date of Award: 23 October 2014

In the ARBITRATION between:

**SAPU obo CJC Kleinhans & AM Rasdien**  
(Union / Applicants)

and

**Department of Transport: EC**  
(Respondent)

**Union / Applicant's representative:** Mr L Naude (SAPU) \_\_\_\_\_  
Applicant's address: 38 Pickering Street \_\_\_\_\_  
Newton Park \_\_\_\_\_  
Port Elizabeth, 6025 \_\_\_\_\_  
Telephone: 041 365 0101 / 084 607 7699 \_\_\_\_\_  
Telefax: 041 365 0108 \_\_\_\_\_

**Respondent's representative:** \_\_\_\_\_  
Respondent's address: Department of Transport: Eastern Cape \_\_\_\_\_  
Struandale Traffic Control \_\_\_\_\_  
Port Elizabeth \_\_\_\_\_  
Telephone: \_\_\_\_\_  
Telefax: \_\_\_\_\_

## **DETAILS OF HEARING AND REPRESENTATION**

1. This matter was set down for hearing on 09 October 2014 at the offices of SAPU, 38 Pickering Street, Newton Park, Port Elizabeth. Mr L Naude (SAPU) represented Mr CJ Kleinhans and Mr AM Rasdien (applicants). There was no attendance by or on behalf of the Department of Transport: EC (respondent). I am satisfied that the respondent was notified of the time, date and venue for hearing and the matter proceeded in their absence.

## **ISSUE IN DISPUTE**

- 2 The issue to be determined is whether the respondent complied with PSCBC Resolution 1/2007 in failing to grant the applicants' claims for overtime and dependent thereon-appropriate relief.

## **BACKGROUND TO THE ISSUE**

- 3 It was the case of the applicants' that they were required to work overtime, as per a duty roster, prepared on a weekly basis, by their acting Station Commander. They had both submitted claims for overtime worked on 29 and 30 March 2014. In the case of CJC Kleinhans **R 1 885.20** (8hours at R100.99 + 8 hours at R134.66) and in the case of AM Rasdien **R 1 913.36** (8 hours at R102.50 + 8 hours at R136.67) and to date these had had not been paid.
- 4 Subsequent to the referral of this dispute, the applicants have worked additional overtime during April 2014 and sought that these amounts be included in their claim under case reference PSCB145-14/15. CJC Kleinhans worked a total of 44 hours overtime and his claim for April was **R 5 386.32**<sup>1</sup> (16 hours at R100.99 + 28 hours at R134.66). AM Rasdien also worked a total of 44 hours overtime and his claim for April was **R 5 466.76**<sup>2</sup> (16 hours at R102.50 + 28 hours at R136.67)

## **ANALYSIS**

- 5 PSCBC Resolution 1/2007 (PSCBC R1/2007) regulates the issue of overtime worked<sup>3</sup> by public service employees appointed in terms of the Public Service Act 103/1994 (PSA) and who fall within the registered scope of the PSCBC.
- 6 In summary PSCBC R1/2007 provides the basis of calculation for normal overtime worked on a Sunday or Public Holiday (2 x basic salary), all other overtime to be 1.5 x basic salary, the overtime payment rates of employees who normally work on a Sunday or Public Holiday and makes provision that the averaging of maximum hours overtime be determined in the various sectoral bargaining councils. Commuted overtime is excluded. Overtime is paid without the option of granting time off

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<sup>1</sup> The amount is calculated on the amended hours as signed off on Annexure B

<sup>2</sup> The amount is calculated on the amended hours as signed off on Annexure D

<sup>3</sup> See Par. 1.8 and 9 of PSCBC R1/2007

- 7 PSCBC R 1/2007 is binding on the parties (Par. 2) and in the event of a dispute about the interpretation or application any party may refer the matter to the PSCSBC for resolution in terms of the PSCBC dispute resolution procedure (Par. 19)
- 8 In the instant matter the applicants are appointed in terms of the PSA. It is evident that they have worked the overtime as set out above, and despite having submitted the necessary claim forms have not been paid.
- 9 Notwithstanding that the applicants may be entitled to payment of the overtime due them for the month of April 2014, (See [4] above) this particular claim was not referred under case reference PSCB145-14/15. In the circumstance this claim is not properly before the PSCBC and it would not be proper to make an award in relation thereto. The parties are however encouraged to resolve this without the need for a further referral.
- 10 In the circumstances and taking into account the provisions of PSCBC R 1/2007 and the respective claims, read with sections 23 and 31 of the Labour Relations Act 66 of 1995, I find that the applicants are entitled to payment for overtime worked as claimed and set out in [3] above. In the circumstances I make the following award.

#### **AWARD**

- 11 The applicants CJC Kleinhans PERSAL No. 54095506 and AA Rasdien PERSAL No. 54245222 are entitled to payment of overtime in terms of the Public Service Coordinating Bargaining Council (PSCBC) Resolution No. 1/2007
- 12 The respondent, the Department of Transport: EC, are ordered to pay the applicants CJC Kleinhans and AA Rasdien overtime in the sum of **R 1 885.20** and **R 1 913.36** respectively, as set out in paragraph 3 above, within 30 days of this award.



Signature:

Panelist: **John Cheere Robertson**

Sector: **Public: Transport**