



PUBLIC SERVICE CO-ORDINATING BARGAINING COUNCIL

ARBITRATION AWARD

Case Number: PSCB156-14_15

Panellist: Martinus van Aarde

Date of Award: 25 August 2014

In the **MATTER** between

PSA obo TJ Kilane

(Applicant)

and

Department of Health

(Respondent)

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

Applicant's address: C/o: PSA

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Respondent's representative: Mr L Mapena

Respondent's address: Department of Health

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1. Details of hearing / representation

The case was set down for an arbitration hearing on 25 August 2014 (12h00) at Bloemfontein, DPRT Offices. Mr. A. J. Greeff: Official PSA represented the Applicant (Kilane). Mr L Mapena: Labour Relations Officer represented the Respondent (DPRT).

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 is employed as Staff Nurse. The Applicant lodged a grievance on 1 April 2014 re her extended period of appointment on probation for more than twelve (12) months.

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 11 June 2014 in terms of section 24(2)/(5)/LRA '95. The conciliation hearing was held on 10 July 2014/the dispute declared unresolved in terms of section 135(5)/LRA '95. The Applicant then filed a request for arbitration on 14 July 2014.

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.

4.2 Mr Mapena, on the other hand stated that the despite various requests he did not yet receive any answer/response of the line manager regarding the Applicant's grievance.

4.3 Resolution 14/2002 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 speedily 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. 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 PSCB156-14_15 the following award is rendered—

- 5.1 The Respondent failed to comply with the prescriptive timeframes contained in Resolution 14/2002.
- 5.2 The Respondent is hereby ordered to respond to the Applicant's grievance in writing within seven (7) days after date of receiving this award.
- 5.3 I have seriously considered to order cost against the Respondent but decided to rather caution the latter to attend to grievances in a prompt manner.

Signature:



Senior Arbitrator: ***Martinus van Aarde***