



PHSDSBC

PUBLIC HEALTH AND SOCIAL DEVELOPMENT
SECTORAL BARGAINING COUNCIL

ARBITRATION AWARD

Case Number: **PSHS447-17/18**

Commissioner: **Clarence Randall**

Date of Award: **6 December 2017**

In the matter between:

HOSPERSA OBO JAER, B.E

(Applicant)

and

DEPARTMENT OF HEALTH- EASTERN CAPE

(Respondent)

DETAILS OF THE HEARING AND REPRESENTATION

1. This arbitration was heard finalized on 1 December 2017 at the Uitenhage Hospital boardroom, situated in Uitenhage.
2. The Applicant was represented by Mr Ntlabati, an official from the union HOSEPRSA of which the Applicant is a member.
3. The Respondent, Department of Health – Eastern Cape, (“the Respondent”) was represented by Ms. E.Dodd an employee of the Respondent.
4. The proceedings were digitally recorded.

5. The matter was heard in English and was digitally recorded.

ISSUE TO BE DECIDED

6. The matter was referred to the Council as a dispute relating to the interpretation/application of Resolution 3/2007.

7. I am called upon to determine whether the Respondent correctly applied the said collective agreement and if not, to make an appropriate arbitration award as per Section 138(9) of the Labour Relations Act, 66 of 1995, as amended (the Act).

SURVEY OF EVIDENCE & ARGUMENT

8. I have considered all the relevant evidence and argument placed before me by the parties, including a 10-page bundle, but I shall only refer to that which I regard as necessary to substantiate my findings and the determination of the dispute.

9. It is common cause that:

- The Respondent acknowledges that an amount of R62 687.17 is due and owing to the Applicant;
- After deducting the GEPF Contribution of the Applicant, the gross amount due and owing to the Applicant is R55 970.69; and
- The Applicant confirms that the above-mentioned amount is still due and owing to the Applicant.

Applicant's case

10. Nothing to add.

Respondent's case

11. The initial total amount, less GEPF contributions, was approved on 19 September 2016.

12. The gross amount due, less the contributions, was approved on 31 October 2016. The Respondent has to date not paid the amount, as there are no funds available to pay the Applicant the outstanding amount.

ANALYSIS OF EVIDENCE AND ARGUMENT

13. Resolution 3/2007 is a collective agreement and its provisions are mandatory. In terms of section 24 of the Act, an affected party may refer a dispute about the interpretation or application of a collective agreement to the relevant dispute resolution forum. An arbitrator is enjoined to determine whether the provisions of a collective agreement were correctly applied, and to order competent or appropriate relief in instances of non-compliance. The Applicant contends that the Respondent failed to comply with the implementation of Resolution 3/2007, and he seeks an order for competent relief.

14. In light of the submissions made by the parties I deem it appropriate to make the following award:

AWARD

15. The Respondent is ordered to pay the outstanding amount of R55 970.69, less any statutory deductions that it is required to make to the Applicant by no later than 22 December 2017.

16. There is no order as to costs.

Signature:



Panelist:

Clarence Randall
