



Arbitration Award Rendered

Case Number: GAEK8872-14

Commissioner: Larry Shear

Date of Award: 18-May-2015

In the **ARBITRATION** between

Marcus Mtsobane Marakalala and 1 Other

(Union/Applicant)

and

Miya Mdluli Investmenst cc

(Respondent)

Union/Employee's representative: In person

Union/Applicant's address: Stand 5660

Roodekop Ext 23

Germiston

1401

Telephone: 072 537-5149

Telefax: _____

E-mail: _____

Employer's representative: In person

Respondent's address: P O Box 168

Germiston

1401

Telephone: 011 873-6493


Telefax: 011 872-2153

E-mail: Miyam.inv@gmail.com

1. Applicants in the above matter were previously employed by the respondent, who transports waste products to and between various land-fill sites within the Ekurhuleni district.
2. Ms Mdluli submitted that those employees engaged in the transportation of such waste products, using heavy duty trucks for that purpose, falls within the scope of the National Bargaining Council for Road Freight and Logistics Industry. Those employees, however, not engaged in the transportation, per se, and who are employed at the various land-fill sites, do not fall within the scope of the said Bargaining Council.
3. Ms Mdluli confirmed that those employees engaged in the transportation of such waste product have been registered with the Bargaining Council, which was confirmed by the representatives of the said Bargaining Council.
4. Miya Mdluli Investment CC won a successful tender to dispose of waste products at various land-fill sites within Ekurhuleni. The general workers (40 are employed) are employed to ensure that the various sites are well maintained and meet the Council's health and hygienic requirements. These employees are not engaged in the transportation of any material or goods and these employees are merely engaged in the cleaning operations, as described.
5. The Bargaining Council representative referred to the Demarcation Award between the same Bargaining Council and Compass Waste Services (Pty) Limited (KNDB 7196-11), wherein, at paragraph C under the heading, DETERMINATION, the following is recorded – *“Insofar as the company and some of its employees are engaged or employed in waste treatment, they are not engaged or employed in the Road Freight Sector, and the Collective Agreements are not binding on them.”*
6. The Bargaining Council, submitted that inasmuch as those general workers engaged in maintaining the land-fills, are concerned, they are not engaged nor employed in the Road Freight Sector, and those employees are not required to register within the National Bargaining Council for Road Freight and Logistics Industry.
7. Inasmuch as the drivers and those engaged in the Road Freight Industry are concerned, I am satisfied that those employees have been duly registered with the Bargaining Council, and no Order nor Award will be required in respect of those employees.

8. Those employees who are not engaged in the road freight industry, per se, and who are employed as "general workers" are not required to be registered with the Bargaining Council.

Commissioner:



L. SHEAR

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NATIONAL ECONOMIC DEVELOPMENT AND LABOUR COUNCIL

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10 June 2015

Ms N Khan
National Director: CCMA
26 Harrison Street
JOHANNESBURG
2001

Per Telefax: 086 546 8116

Dear Ms Khan

RE: ARBITRATION AWARD: MM MARAKALALA vs MIYA MDLULI
INVESTMENT CC: GAEK 8872-14

The above Demarcation Dispute was forwarded to Nedlac in terms of Section 62 (9) of the Labour Relations Act 66 of 1995.

The standing committee has requested that the award should be drafted in a standard format, and include all relevant information in terms of the findings of the Commissioner, and statements of fact from the parties.

After due consideration, the standing committee hereby informs you that it is in support of the award issued by the Commissioner.

Kind Regards

MAHANDRA NAIDOO
ACTING EXECUTIVE DIRECTOR