

IN THE EXEMPTION APPLICATION OF:-

MOONSTONE TRANSPORT & MINING (PTY) LTD

Applicant

and

**NATIONAL BARGAINING COUNCIL FOR THE
ROAD FREIGHT AND LOGISTICS INDUSTRY (Council)**

Respondent

DECISION

1. The Applicant applied for exemption not to contribute to Levies, Leave Pay Fund, Holiday Bonus Fund, Sick Leave Fund, Wellness Fund and the Provident Fund for a period of six months.

2. The application appeared on the Agenda of the Exemptions Body meeting held on the 18th April 2011.

3. The following were present:-
 - 3.1 Mr. Y. Nagdee - Chairperson of the Exemptions Body
 - 3.2 Mr .G. Wessels - Member of the Exemptions Body
 - 3.3 Ms. R. Manning - Member of the Exemptions Body
 - 3.4 Mr. T. Short - Member of RFEA
 - 3.5 Mr J. Gys - MTWU
 - 3.6 Mr J. Gamede - SATAWU
 - 3.7 Mr. E. Kock - Senior Agent of NBCRFLI

- 3.8 Mr P. Mndaweni - Committee Secretary of NBCFRLI
3.9 Mr G. Erasmus - Managing Director of Applicant

4. Apologies were received from:

- 4.1 Ms T. Stroh - NBCRFLI
4.2 Ms M. Brown–Engelbrecht - Member of RFEA
4.3 Mr N. Pakkies - SATAWU

5. **APPLICANT'S SUBMISSIONS**

The Applicant submitted, inter alia, as follows:

“The nature of the application is to exempt us from payment to the Bargaining Council for six months in order for us to get back our financial stability in the first case to ensure that we keep our employees in employment, secondly to pay them their salaries to ensure their holiday pay and they medical payments, to avoid retrenchment and a total collapse of our business.

We plead the case to be heard in compassion with our efforts to keep employment.

We plead for relief from clauses 19, 21, 22, 32, 37, 57, 41 and Provident Fund agreement, section 7.

The past six months have been problematic for Moonstone Transport and Mining since the Company is in a Court case battle due to a facts dispute between Moonstone and Incebo Mining to the amount of R20 million rand.

All drivers are paid up to date and drivers have been consulted with the facts and decisions regarding the non payment and the situation we are in.”

6. **COUNCIL’S SUBMISSIONS**

The Council submitted, inter alia, as follows:

- 6.1 The Applicant was in arrears for 9 months and not 6 months.
- 6.2 The Council opposed the application as there are awards against the Company.
- 6.3 The implication of non payment amounted to exploitation.

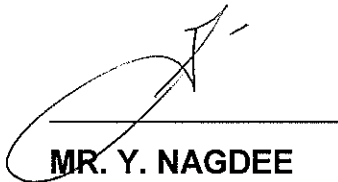
7. **ANALYSIS**

- 7.1 The submissions made were carefully considered. The Applicant has not demonstrated that special circumstances exist for the granting of the application.
- 7.2 To grant an application as contemplated by the Applicant would amount to unfair competition.

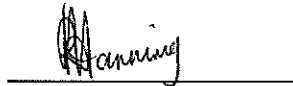
8. **DECISION**

In the circumstances the application is refused.

DATED THE 30 DAY OF April 2011 AT BRAAMFONTEIN,
JOHANNESBURG.



MR. Y. NAGDEE
Chairperson of the
Exemption Body



MRS R. MANNING
Member of the
Exemption Body
I agree

MR G. WESSELS
Member of the
Exemption Body
I agree