

IN THE EXEMPTION APPLICATION OF:-

F & F TRANSPORT

Applicant

and

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

Respondent

DECISION

1. The Applicant applied for exemption to submit monthly returns on the 7th of the month following the 20th that the returns are due.
2. The matter appeared on the Agenda of the Exemptions Body meeting held on the 18th June 2012.
3. The following were present:-
 - 3.1 Mr Y. Nagdee - Chairperson of the Exemptions Body
 - 3.2 Ms R. Manning - Member of the Exemptions Body
 - 3.3 Mr G. Wessels - Member of the Exemptions Body
 - 3.4 Mr E. Kock - Senior Agent of NBCRFLI
 - 3.5 Mr P. Mndaweni - Committee Secretary of NBCFRLI

4. APPLICANT'S SUBMISSIONS

The Applicant submitted, inter alia, as follows:

"NATURE OF APPLICATION:

To be exempted from submitting monthly returns on the 20th of the month and render payment on the 7th of the month following the 20th when returns are due.

STATEMENT OF MATERIAL FACTS:

Contributions due to the Bargaining Council is payable by the 20th of the following month. For the period January to August our production comes down with approximately 45% and our turnover is considerably reduced over this period.

Our debtors are supposed to pay us 30 days from date of invoice and 90% of them only settle their accounts between 60 and 90 days from date of invoice. This practice has a negative impact on the Applicant's cash flow and our creditors cannot be paid timelessly.

APPLICANT'S PAST RECORD:

The Applicant has always complied with the provisions of the Council's Main Collective Agreement.

SPECIAL CIRCUMSTANCES:

The Applicant seeks temporary relief to avoid paying penalties, which will further have a negative impact on the cash flow of the Applicant.

ANY PRECEDENT THAT MIGHT BE SET:

No precedent will be set as any application will be treated on its merits.

UNFAIR COMPETITION:

No unfair competition will exist as any company is allowed to apply for temporary relief, should its situation warrant it.

COLLECTIVE BARGAINING:

There will be no impact on collective bargaining as this is only requested for temporary relief.

POTENTIAL FOR LABOUR UNREST:

There will be no prejudice suffered by the Applicant's employees as benefits that are paid to Council is only claimed during the Applicant's annual shutdown, which is over the December period.

INCREASED EMPLOYMENT:

No affect.

EXPLOITATION:

No affect.

JOB PRESERVATION:

No affect.

SOUND CONDITIONS OF EMPLOYMENT:

No affect.

POSSIBLE BENEFITS:

Should exemptions be successful, the Applicant will not have to look for other alternatives like sort time.

HEALTH AND SAFETY:

No impact.

INFRINGEMENT OF BASIC RIGHTS:

No impact.

FINANCIAL STABILITY:

Cash flow will be stable and Applicant will be in a situation to comply with the provision that it seeks exemption from.

IMPACT OF PRODUCTIVITY:

Business will continue as usual

FUTURE RELATIONSHIP WITH EMPLOYEE'S TRADE UNION:

No impact.

OPERATIONAL REQUIREMENTS:

There will be no impact on operational requirements should the application be granted. It will affect the company negatively should it not be granted."

5. COUNCIL'S SUBMISSIONS

The Council submitted, inter alia, as follows:

“The Applicant has a history of non compliance in that the monthly return is not submitted on the due date.”


6. ANALYSIS

- 6.1 A perusal of the Applicant's application and its financial statements reflect that it has small overdraft. The Applicant's cash flow appears to be flush averaging between R60 000.00 to R85 000.00.
- 6.2 The Applicant has attached a trial balance for the year ending February 2012. The trial balance shows a good profit and a positive bank balance of roughly R6 300 000.00 at year end compared to R6 000 000.00 for the year prior to this.
- 6.3 The Applicant has not demonstrated that special circumstances exist for the granting of the application. Furthermore it has a history of non compliance.

7. DECISION

Having regard to the above, the Exemptions Body is not satisfied that the Applicant has made out a case for the granting of the application. Accordingly the application is refused.

DATED THE 3 DAY OF July 2012 AT BRAAMFONTEIN,
JOHANNESBURG.



MR. Y. NAGDEE
Chairperson of the
Exemption Body

MS R. MANNING
Member of the
Exemption Body
I agree



MR G. WESSELS
Member of the
Exemption Body
I agree