

IN THE EXEMPTION APPLICATION OF:-

TIME TRUCKING (PTY) LTD

Applicant

and

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

Respondent

DECISION

1. The Applicant applied for exemption to exceed the prescribed number of overtime hours allowed per week. Extension from 30 hours to 40 per week.
2. The matter appeared on the Agenda of the Exemptions Body meeting held on the 22nd May 2013.
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 Mr P. Mndaweni - Committee Secretary of NBCFRLI
 - 3.4 Ms J. Nel - Exemptions Officer of NBCRFLI
 - 3.5 Mr D. Ackermann - Human Resources Manager
 - 3.6 Mr D. Smith - Director

3.7 Mr L. Dos Santos - HR Official

4. Apologies were received from the following members:

4.1 Ms R. Manning - Member of the Exemptions Body

4.2 Ms T. Stroh - Acting CEO of NBCRFLI

5. **APPLICANT'S SUBMISSIONS**

5.1 The Applicant submitted in a letter dated April 2013 as follows:

"The nature of the above application, in terms of Clause 4(6)(a) of the Disputes and Exemption Resolution Agreement, is one of extending the maximum hours overtime to 40 hours per week.

The material facts of the application are that the Applicant Time Trucking (Pty) Ltd has been operating in the Road Freight Industry since 1983. In 1987 it registered with Council out of its own accord. Since 1983, and more specifically 1987, the Applicant has built an impeccable record on how it conducts its business, applied sound business ethics, approached labour relations and indeed practiced sound, fair and equitable employee relations. Its record of relative harmonious relations with its employees and Union speaks for itself.

The Applicant's past record of compliance with Council's Collective Agreements and Exemption Certificates is well documented at Council. The need for the Applicant to have the maximum amount of

overtime hours again increased to 40 hours per week has its origin in the nature of its business. The Applicant offers its clients a unique service that relies on it have available drivers at short notice to deliver goods, over long distances and over long hours. The only way that this service can be achieved and the required service levels be maintained, is to be able to work overtime in excess of that what is allowed as standard in the Main Agreement of Council.

The Applicant has operated with the exemption for a fair period of time now. It has always shown that it can do so with the interest of its employees at heart.

Therefore the support from its employees. It has also shown that it operates within the exemption and according to its conditions.

We therefore pray that the esteemed Council approves and grants this application for exemption.

6. **COUNCIL'S SUBMISSIONS**

The Council submitted, inter alia, as follows:

- "1. The Applicant has a good compliance history with Council Agreements. Applicant registered with Respondent on 31/07/1998 and is situated in Gauteng.*

2. ***Previous exemption related to same subject was granted on 02 February 2006 – Exemption licence number EB12/2006.***
3. ***Applicant is applying for exemption to extend overtime to 40 hours per week and request that overtime be extended from 30 hours to 40 hours per week.***
4. ***To allow employees to work 40 hours overtime a week might have an effect on health and safety due to that the driver will not have enough sleep and might cause an accident.***
5. ***The Exemptions Body is guided by Part 2: Hours of work – Clause 6, 10 and 17 of the Main Collective Agreement and Clause 4(8) of the Exemptions and Disputes Resolution Agreement. We therefore trust that the panel will make their decision accordingly.”***

7. **ANALYSIS**

- 7.1 The submissions made by the Applicant were carefully considered. The Applicant highlighted that due to the nature of its operations it had to work extended overtime hours and had enjoyed an exemption for a number of years.
- 7.2 It was also pointed out excessive driving did not take place and the necessary rest periods were adhered to. Council agents maintained monthly visits and monitored its compliance closely.

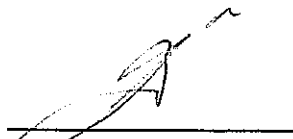
- 7.3 The Applicant referred to a safety quality system (referred to as SQAS) and which is a computer generated system whereby an audit is carried out every quarter on safety.
- 7.4 In particular Bayer monitored all aspects of safety and in the last 3 years it achieved an average rating of 92% which is above the 90% required as an approved supplier of the transportation of dangerous goods.
- 7.5 The Exemptions Body subsequently received the results of these audits and is satisfied that the Applicant placed a high premium on the safety of its employees and the public having regard to hazardous material conveyed.
- 7.6 The Applicant consulted with SATAWU and has the support of its employees.
- 7.7 The Exemptions Body is satisfied the Applicant has met the requirements for the granting of the application.

8. **DECISION**

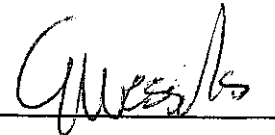
- 8.1 The Applicant is granted an exemption to work overtime upto a maximum of 40 hours per week.
- 8.2 The Applicant is to comply with provisions relating to time keeping and payment for overtime work.

8.2 The exemption is granted for the period 1st March 2013 to 28th February 2014.

DATED THE 7TH DAY OF June 2013 AT BRAAMFONTEIN, JOHANNESBURG.



MR. Y. NAGDEE
Chairperson of the
Exemption Body



MR G. WESSELS
Member of the
Exemption Body
I agree