

IN THE EXEMPTION APPLICATION OF:-

SIYAYA FUEL TRANSPORTING

Applicant

and

NATIONAL BARGAINING COUNCIL FOR THE
ROAD FREIGHT INDUSTRY (Council)

Respondent

DECISION

This matter appeared on the agenda of the meeting of the Exemptions Body held on the 20th October 2008 on the 2nd Floor, Boardroom of the Road Freight House West, 29 De Korte Street, Braamfontein.

Present on this day were:-

- | | | | |
|----|---------------------|---|------------------------------------------------------------------------|
| 1. | Adv. R. Rawat | - | Chairperson of the Exemption's Body |
| 2. | Mr. Y. Nagdee | - | Member of the Exemption's Body |
| 3. | Mr. T. Short | } | Road Freight Employers Association
(RFEA) |
| 4. | Mr. M. Brown | | |
| 6. | Mr. A. Ramakgolo | } | South African Transport & Allied Workers
Union (SATAWU) |
| 7. | Mr. J. Gamede | | |
| 5. | Mr. P. Mndaweni | } | National Bargaining Council for the
Road Freight Industry (Council) |
| 6. | Mr. N. Van Der Stys | | |

This Application for Exemption simply reads:-

"12 SEPTEMBER 2008

NATIONAL SECRETARY

- *We hereby apply for exemption to calculate our monthly returns on a monthly basis due to the fact that we pay our employees p/m.*
- *We apply for exemption to state the Council's minimum wage of R4378.84 on our*

payslips our employees earn R8000.00 + p/m and that the balance of R8000.00 include subsistence and over time.

*Kind Regards
JOEY"*

This Application for Exemption is fraught with several difficulties:-

1. The application to calculate levies on a monthly basis as the employees are paid monthly is not understood. The rule of the NBCRFI (Council) is that all levies are to be paid by the 20th of each month, on a retrospective basis. This being so, all employers have in essence a month's grace to meet its commitment to Council. There would therefore be no need for the application at hand;
2. The Application for Exemption to state a minimum of R4378.84 on monthly slips instead of the R8000.00 + that employees are earning and which amount (+R8000.00) include subsistence and overtime.

Here too, further elaboration of the facts is required. A literal reading of the statement implies that employees earn a fixed salary of +R8000.00, which amount includes subsistence and overtime. If this is correct, then the Applicant is in flagrant disregard of the terms and conditions of the Main Collective Agreement.

On the other hand, there might be another factual situation which is not properly conveyed in the Application for Exemption.

The Exemptions Body therefore considers it necessary to afford the Applicant the opportunity of resubmitting another application for exemption, on the required form and in so doing, to take into account the short comings which has been highlighted in this decision.

The Applicant is also advised to attend the Exemptions meeting when this application is next tabled.

The National Bargaining Council for Road Freight Industry (Council) is also requested to investigate the situation and to report back to the Exemptions Body on the day of the meeting. Any report issued by Council is also to be delivered to the Applicant in order for the Applicant to respond thereto.

DATED THE 4th DAY OF November 2008 AT BRAAMFONTEIN, JOHANNESBURG.

EXEMPTIONS BODY
Chairperson: R Rawat

ADV. R. RAWAT
Chairperson of the
Exemption Body



MR. Y. NAGDEE

I agree