



**THE LABOUR COURT OF SOUTH AFRICA,
HELD AT JOHANNESBURG**

Case no: JS 989/13

In the matter between:

FARAI MAGANDELA

Applicant

and

**THE GREAT LIQUOR DISCOUNTER
STORES**

First Respondent

Heard: 15 November 2016

Delivered: 22 November 2016

DEFAULT JUDGMENT

LAGRANGE J

[1] The application for default judgement is unopposed. Having heard the applicant and having considered the evidence confirmed on affidavit, I am satisfied that the applicant was underpaid remuneration due to him in various forms in terms of the Sectoral Determination 9, applicable to the Wholesale and Retail Sector of South Africa published in terms of section 56 (1) of the Basic Conditions of Employment Act, 75 of 1997 ('the BCEA'), for the period commencing November 2010 up to, and including May 2013.

[2] In particular, the applicant was short paid the amounts set out in Annexure "A" to his founding affidavit dated 3 December 2015, subject to some

variations which appear to be calculation errors. Further, the applicable prescribed rate of interest applicable from the date each monthly payment was due until the date of judgment was 15.5 % per annum, as all amounts due and owing arose during the period 1 October 1993 to 31 July 2014 when that rate was unchanged.

- [3] However, the applicant's calculation of the interest due has been amended to reflect non-compounding interest accruing from the time each payment was due as far as that can be ascertained from the evidence. Insofar as amounts where only the year of accrual can be ascertained as in the case of Public Holidays, interest has been attributed as accruing from the end of the relevant year.

Order

- [4] The respondent is liable to the applicant in the following amounts which must be paid within 15 days of receipt of this judgment:

- | | | |
|------|---|--------------|
| 4.1 | Arrear wages (as detailed in Table A hereto) : | R 17,612.43; |
| 4.2 | Interest on arrear wages: | R 12,053.33; |
| 4.3 | Arrear overtime pay: | R 21,831.12; |
| 4.4 | Interest on arrear overtime pay: | R 15,768.20; |
| 4.5 | Unpaid public holiday pay: | R 4,896.98; |
| 4.6 | Interest on unpaid holiday pay: | R 3,160.30; |
| 4.7 | Unpaid Sunday overtime pay worked
In December: | R 3,184.64; |
| 4.8 | Interest on unpaid Sunday overtime
pay worked In December: | R 2,616.96; |
| 4.9 | Accrued leave pay August 2012 to
January 2013: | R 1,547.90; |
| 4.10 | Accrued leave pay February 2013 to
April 2013: | R 832.28, |

4.11 Interest on the amounts due in 4.9 and 4.10

above: R 1,351.23

4.12 Unpaid wages for week ending

11 May 2013: R 1,125.37,

4.13 Interest on the amounts due in 4.12

above: R 595.98

TOTAL DUE: R 86,576.72

[5] No order is made as to costs



Lagrange J

Judge of the Labour Court of South Africa

Appearances:

APPLICANT: In person

Table A: Wage

		Actual Monthly wage	Minimum Monthly wage	Shortfall Per month	Interest per month at 15,5% per annum	Accumulated interest
2010	Nov	3,249.75	4,542.96	1,293.21		
	Dec	3,249.75	4,542.96	1,293.21	16.70	1,169.28
2011	Jan	3,249.75	4,542.96	1,293.21	16.70	1,152.57
	Feb	3,249.75	4,542.96	1,293.21	16.70	1,135.87
	Mar	3,249.75	4,542.96	1,293.21	16.70	1,119.17
	Apr	3,249.75	4,542.96	1,293.21	16.70	1,102.46
	May	5,000.00	5,159.19	159.19	2.06	133.65
	June	5,000.00	5,159.19	159.19	2.06	131.60
	July	5,000.00	5,159.19	159.19	2.06	129.54
	Aug	5,000.00	5,159.19	159.19	2.06	127.48

Table A: Wage						
		Actual Monthly wage	Minimum Monthly wage	Shortfall Per month	Interest per month at 15,5% per annum	Accumulated interest
	Sep	5,000.00	5,159.19	159.19	2.06	125.43
	Oct	5,000.00	5,159.19	159.19	2.06	123.37
	Nov	5,000.00	5,159.19	159.19	2.06	121.32
	Dec	5,000.00	5,159.19	159.19	2.06	119.26
2012	Jan	5,000.00	5,159.19	159.19	2.06	117.20
	Feb	5,000.00	5,488.83	488.83	6.31	353.59
	Mar	5,000.00	5,488.83	488.83	6.31	347.27
	Apr	5,000.00	5,488.83	488.83	6.31	340.96
	May	5,000.00	5,488.83	488.83	6.31	334.64
	June					328.33

Table A: Wage						
		Actual Monthly wage	Minimum Monthly wage	Shortfall Per month	Interest per month at 15,5% per annum	Accumulated interest
		5,000.00	5,488.83	488.83	6.31	
	July	5,000.00	5,488.83	488.83	6.31	322.02
	Aug	5,000.00	5,488.83	488.83	6.31	315.70
	Sep	5,000.00	5,488.83	488.83	6.31	309.39
	Oct	5,000.00	5,488.83	488.83	6.31	303.07
	Nov	5,000.00	5,488.83	488.83	6.31	296.76
	Dec	5,000.00	5,488.83	488.83	6.31	290.45
2013	Jan	5,000.00	5,488.83	488.83	6.31	284.13
	Feb	5,000.00	5,851.50	851.50	11.00	483.94
	Mar	5,000.00	5,851.50	851.50	11.00	472.94

Table A: Wage						
		Actual Monthly wage	Minimum Monthly wage	Shortfall Per month	Interest per month at 15,5% per annum	Accumulated interest
	Apr	5,000.00	5,851.50	851.50	11.00	461.94
	TOTAL			17,612.43	-	12,053.33

Table B: Overtime								
		Actual Per hour	Minimum Per hour	Shortfall Per hour	Hours	Shortfall Per month	Interest per month at 15,5 %	Accumulated Interest
2010	Nov	0	23.30	23.30	27	629.10	8.13	576.94
	Dec	0	23.30	23.30	27	629.10	8.13	568.81
2011	Jan	0	23.30	23.30	27	629.10	8.13	560.69

Table B: Overtime								
		Actual	Minimum Per hour	Shortfall Per hour	Hours	Shortfall Per month	Interest per month at 15,5 %	Accumulated Interest
	Feb	0	24.14	24.14	27	651.78	8.42	572.48
	Mar	0	24.14	24.14	27	651.78	8.42	564.06
	Apr	0	24.14	24.14	27	651.78	8.42	555.64
	May	0	26.46	26.46	27	714.42	9.23	599.82
	June	0	26.46	26.46	27	714.42	9.23	590.59
	July	0	26.46	26.46	27	714.42	9.23	581.36
	Aug	0	26.46	26.46	27	714.42	9.23	572.13
	Sep	0	26.46	26.46	27	714.42	9.23	562.90
	Oct	0	26.46	26.46	27	714.42	9.23	553.68
	Nov	0	26.46	26.46	27	714.42	9.23	544.45

Table B: Overtime								
		Actual	Minimum Per hour	Shortfall Per hour	Hours	Shortfall Per month	Interest per month at 15,5 %	Accumulated Interest
	Dec	0	26.46	26.46	27	714.42	9.23	535.22
2012	Jan	0	26.46	26.46	27	714.42	9.23	525.99
	Feb	0	28.15	28.15	27	760.05	9.82	549.77
	Mar	0	28.15	28.15	27	760.05	9.82	539.95
	Apr	0	28.15	28.15	27	760.05	9.82	530.13
	May	0	28.15	28.15	27	760.05	9.82	520.32
	June	0	28.15	28.15	27	760.05	9.82	510.50
	July	0	28.15	28.15	27	760.05	9.82	500.68
	Aug	0	28.15	28.15	27	760.05	9.82	490.87
	Sep	0	28.15	28.15	27	760.05	9.82	481.05

Table B: Overtime								
		Actual	Minimum Per hour	Shortfall Per hour	Hours	Shortfall Per month	Interest per month at 15,5 %	Accumulated Interest
	Oct	0	28.15	28.15	27	760.05	9.82	471.28
	Nov	0	28.15	28.15	27	760.05	9.82	461.41
	Dec	0	28.15	28.15	27	760.05	9.82	451.60
2013	Jan	0	28.15	28.15	27	760.05	9.82	441.78
	Feb	0	30.10	30.10	27	812.70	10.50	461.88
	Mar	0	30.10	30.10	27	812.70	10.50	451.39
	Apr	0	30.10	30.10	27	812.70	10.50	440.89
TOTAL						21,831.12	-	15,768.20

Table C: Public Holidays

	Interest	Shortfall	Accumulated Interest per annum.
2010	15.50%	372.80	337.07
2011	15.50%	1,831.68	1,372.23
2012	15.50%	1,732.50	1,029.39
2013	15.50%	960.00	421.60
		4,896.98	3,160.30
Table D: Sunday Work (December)			
2010	15.5%	1,491.20	1,348.29
2011	15.5%	1,693.44	1,268.67
		3,184.64	2,616.96