
Board of Commissioners Ruling

The Board of Commissioners of the Fair Trading Commission has directed Ferox Abattoir (Pty) Ltd under Section 40 (2)(a) of the Consumer Protection Act 2010 (CPA 2010) to ensure that appropriate measures are taken to prevent the breakdown in the services of the Abattoir facility in order to ensure that a constant quality of service is provided.

This decision was made in relation to a complaint lodged against Ferox Abattoir (Pty) Ltd, with regards to their failure to perform a service in a manner and quality that a person is generally entitled to expect. The complaint, brought under Section 40 (1)(b) of the CPA alleged that Ferox Abattoir (Pty) Ltd had provided substandard service to the complainant, a local registered farmer, leading to the complainant incurring substantial economic loss due to the poor quality of chicken delivered following the slaughtering service of the Abattoir.

The Commission therefore sought that the Board of Commissioners find Ferox Abattoir (Pty) Ltd to have failed to perform the service expected of the Abattoir in the slaughter of broiler chickens and that an appropriate remedy is directed in relation to the Abattoir facility. The Commission also sought damages under Section 41(3)(c) and (d) in relation to the financial loss of earnings incurred by the complainant due to the substandard service that was provided.

The Board of Commissioners pronounced that they would not entertain the claim for damages for physical damage to the broilers but did so order that the client be awarded financial damages in terms of quantum loss. The Board also dismissed the complainant's claim of damages attributed to the complainant's own negligence in not exercising due diligence when taking delivery of the slaughtered broiler chickens and failing to exercise his right to refuse to take the broiler chickens if they had not been properly cleaned. The Board of Commissioners directed that the complainant should be awarded damages in terms of loss in a quantum of Rs 9,378. In view that the amount is the same outstanding amount being claimed by the Abattoir Facility from the complainant as slaughter costs that remains unpaid by the complainant, the sum should therefore be offset.

The Board also stated that taking into consideration the fact that Ferox Abattoir (Pty) Ltd is the only such Abattoir offering a public service in this country that Government tendered the abattoir facility to willing entrepreneurs to provide an essential service that underpins the country's food

security in the livestock sector. The abattoir should therefore be treated as not only essential but strategic to this end. The owner/director of the abattoir was hereby ordered to take up such anticipatory, contingency and pre-emptory measures to prevent breakdown to parts of machinery it operates that may hinder such a vital service that the whole farming community depends upon. It was also ordered to prevent and mitigate occurrences as happened in this case to cause losses to farmers as well as taking all necessary steps to remedy defaults with the general infrastructure of the facilities to avoid the disintegration of the quality of service provided.

The decision was pronounced October 7th 2014.

Complete rulings of the Board of Commissioner can be accessed via website (www.ftc.sc) or viewed at the FTC office.