KINGDOM OF CAMBODIA

NATION RELIGION KING

ក្រុមប្រឹក្សាអាជ្ញាកណ្តាល

THE ARBITRATION COUNCIL

Case number and name: 76/13-Top Fame

Date of award: 26 April 2013

ARBITRAL AWARD

(Issued under Article 313 of the Labour Law)

ARBITRAL PANEL

Arbitrator chosen by the employer party: **Seng Vuoch Hun**

Arbitrator chosen by the worker party: **Liv Sovanna**

Chair Arbitrator (chosen by the two Arbitrators): **Pen Bunchhea**

DISPUTANT PARTIES

Employer party:

Name: **Top Fame Garments Limited**

Address: Mal Village, Dangkor Commune, Dangkor District, Phnom Penh

Telephone: 078 668 866 / 078 999 789 Fax: N/A

Representatives: Absent

Worker party:

Name: **- Cambodian Labour Union Federation (CLUF)**

- Local Union of CLUF (the union)

Address: (Borey Sola) House no. 30 C, Street 371, Trorpaing Chhouk Village, Sangkat Teok Tla, Khan Sen Sok, Phnom Penh

Telephone: 077 776 181 Fax: N/A

Representatives:

1. Mr Seng Menghong Officer of CLUF
2. Mr Vann Mao President of the union
3. Mr Pun Sina Secretary of the union

ISSUES IN DISPUTE

(From the Non-Conciliation Report of the Ministry of Labour and Vocational Training)

1. The workers demand that the employer pay the attendance bonus in proportion to the number of days of authorised leave taken by the workers. The employer claims it will maintain its current practice.
2. The workers demand that the employer pay outstanding wages and termination compensation within 48 hours upon workers' resignation or termination of their contracts of employment. The employer claims it will discuss this issue with its management team.
3. The workers demand that the employer provide a 4,000 riel payment in lieu of lunch per day. The employer rejects the demand.
4. The workers demand that the employer provide an additional US$10 accommodation and transportation allowance. The employer rejects the demand.
5. The workers demand that the employer provide them with at least two shirts per year. The employer claims it will discuss within its management team.

JURISDICTION OF THE ARBITRATION COUNCIL

The Arbitration Council derives its power to make this award from Chapter XII, Section 2B of the Labour Law (1997); the *Prakas* on the Arbitration Council No. 099 dated 21 April 2004; the Arbitration Council Procedural Rules which form an Annex to the same *Prakas*; and the *Prakas* on the Appointment of Arbitrators No. 121 dated 7 June 2012 (Tenth Term).

An attempt was made to conciliate the collective dispute that is the subject of this award, as required by Chapter XII, Section 2A of the Labour Law. The conciliation was unsuccessful, and non-conciliation report No. 400 dated 28 March 2013 was submitted to the Secretariat of the Arbitration Council on 1 April 2013.

HEARING AND SUMMARY OF PROCEDURE

Hearing venue: The Arbitration Council, No. 72, Street 592, Corner of Street 327 (Opposite Indra Devi High School) Boeung Kak II Commune, Tuol Kork District, Phnom Penh

Date of hearing: 11 April 2012 at 2:00 p.m.

Procedural issues:

On 5 March 2013, the Department of Labour Disputes (the department) received a complaint from CLUF, outlining the workers' demands for the improvement of working

conditions. Upon receiving the claim, the department assigned an expert officer to resolve the labour dispute, and the last conciliation session was held on 26 March 2013. After the conciliation, five of twenty issues remained unresolved. The five non-conciliated issues were referred to the Secretariat of the Arbitration Council (SAC) on 1 April 2013.

Upon receipt of the case, the Secretariat of the Arbitration Council summoned the employer and the workers to a hearing and conciliation of the five non-conciliated issues, held on 11 April 2013 at 2:00 p.m. The workers were present, but the employer was absent. Therefore, the Arbitration Council considers whether or not it is able to hold a hearing in absence of the employer.

Clause 21 of Prakas no. 099 dated 21 April 2004 on the Arbitration Council states:

> In the case that one of the parties, although duly invited, fails to appear before the arbitration panel without showing good cause, the arbitration panel may proceed in the absence of that party or may terminate the arbitral proceedings by means of an award.

Based on Clause 21 of Prakas no. 099 dated 21 April 2004 above, in previous cases where an invited party failed to appear before the Arbitration Panel, the Arbitration Panel will proceed in the absence of that party *(see Arbitral Awards no. 53/04-Kuong Hong, 63/04-Shine Well, 148/07-Pay Her, 99/09-Kingsland, 173/11-Zhen Yun and 34/12-XIN CHANG XIN).*

In the present case, the SAC summoned both the employer and the workers to the hearing but only the workers appeared before the Arbitration Panel. The employer did not provide appropriate reasons for its failure to attend the hearing at the Arbitration Council.

In this case, the Arbitration Panel agrees with the interpretation made in previous cases. Therefore, the Arbitration Panel will proceed with the hearing in absence of the employer.

The Arbitration Council divided the issues into two types: rights disputes and interests disputes. In this case, the parties are signatories to the Memorandum of Understanding on Improving Industrial Relations in the Garment Industry (MoU), dated 3 October 2012. According to the MoU, both parties have agreed to binding arbitration for rights disputes. However, the MoU does not create binding obligations regarding interest disputes. The parties are able to choose non-binding arbitration for interest disputes, and can object to an arbitral award issued in relation to such disputes. Such an objection will not affect the parties' obligation to implement an award on rights issues in accordance with the MoU.

Therefore, the Arbitration Council will consider the issues in dispute in this case based on the evidence and reasons below.

EVIDENCE

This section has been omitted in the English version of this arbitral award. For further information regarding evidence, please refer to the Khmer version.

FACTS

- Having examined the report on collective labour dispute resolution;
- Having listened to the statements of the representatives of the employer and the workers, and;
- Having reviewed the additional documents;

The Arbitration Council finds that:

- Top Fame is a garment manufacturer that employs a total of 550 workers.
- The union is the claimant in this case. It holds a certificate of union registration from the Ministry of Labour and Vocational Training dated 5 April 2012. The union has 260 members but it does not hold the certificate of the most representative status (MRS) at Top Fame.

Issue 1: The workers demand that the employer pay the attendance bonus in proportion to the number of days of authorised leave taken by the workers.

- The workers demand that the employer pay the attendance bonus in proportion to the number of days of authorised leave for personal commitment that the workers take. The demand is not related to annual leave and special leave.
- The workers claim that the employer currently provides each worker with a US$10 attendance bonus per month but the employer withholds the entire attendance bonus when the workers take authorised leave for a personal commitment.
- The workers claim that:
    - According to Article 103 of the Labour Law, bonuses are an element of a worker's wages. Since the attendance bonus is a type of bonus, it must be considered to be an element of a worker's wages. Moreover, wages are paid in accordance with the number of days that the workers perform work for their employer; therefore, the attendance bonus, which is an element of the wage, shall be paid in the same way wages are paid. In short, the payment of the attendance bonus should be made according to the number of days that the workers perform work for the employer.
    - There are many arbitral awards ordering the employer to reduce the attendance bonus in proportion to the number of days of authorised leave for personal commitment taken by the workers.
    - The workers take leave for personal commitment under the employer's authorisation. Therefore, it is not reasonable for the employer to withhold their entire attendance bonus for a month (26 working days) for a single absence for personal commitment. Therefore, the attendance bonus should be reduced according to the number of days that the workers fail to attend work.

Issue 2: The workers demand that the employer pay outstanding wages and termination compensation within 48 hours upon their resignation or termination of their contracts of employment.

At the hearing, the workers claim the employer had previously paid wages and termination compensation on the 10th of each month. In short, they were paid on the regular pay day of each month following their resignation, or after the employer terminated their contracts of employment.

- The workers claim:
    - The Labour Law clearly states that the employer shall pay outstanding wages within 48 hours upon termination.
    - Upon workers' resignation or termination of contracts of employment, the workers would migrate to other places. Therefore, they face difficulty in returning to receive their final wages.

Issue 3: The workers demand that the employer provide a 4,000 riel payment in lieu of lunch per day.

- At the hearing, the workers claim that the employer has never provided workers with payment in lieu of lunch.
- The workers demand that the employer provided a 4,000 riel payment in lieu of lunch per day. This is because:
    - Costs of consuming goods in the market have continued to rise.
    - Costs of rent and utility have also continued to rise. Therefore, the workers who are living on little wages could not are unable to support their daily living.
    - Neighboring factories have provided each worker with payment in lieu of lunch. For example, Next-t have provided its workers with a US$5 payment in lieu of lunch per month, Hong Kong Fair (located in Kampong Speu province) have provided its workers a US$14 payment in lieu of lunch per month and S L had provided each worker a free lunch.

Issue 4: The workers demand that the employer provide an additional US$ 10 accommodation and transportation allowance.

- At the hearing, the workers claimed that the employer had been providing each worker with a US$7 accommodation and transportation allowance per month.
- The workers demanded that the employer provide each worker an additional US$10 accommodation and transportation allowance on top of the existing US$7 allowance to reach a total of US$17 per month, on the reasoning that:
    - Rental cost has increased. Each worker spent about US$10 per month.
    - Transportation cost has increased. Each worker spends about US$5 per month.

Issue 5: The workers demand that the employer provide at least two shirts per year.

- At the hearing, the workers claimed that the employer had never provided workers with clothing.
- The workers demanded that the employer provided each worker with at least two sets of clothing per year on the reasons that:
    - Prakas no. 307 dated 14 December 2007 requires the employer to provides each worker at least two sets of clothing per year.
    - Providing clothing help cut down damages to workers' personal clothing.

REASONS FOR DECISION

Issue 1: The workers demand that the employer reduce attendance bonus in proportion to the number of days of authorised leave taken by the workers.

Firstly, the Arbitration Council will consider whether the demand gives rise to a rights dispute or an interests dispute.

In previous cases, the Arbitration Panel has found that: *"Rights disputes are the disputes concerning the interpretation and enforcement of laws or regulations or of a collective agreement." (see the Arbitral Awards no. 05/11-M & V1), Issue 1 and 5, no.13/11-Gold Kamvimex, Issue 1 and 2, no.14/11-GHG Cambodia, Issue 4)*

The Arbitration Panel in this case agrees with its legal reasoning found in previous cases.

Point 2 of notification 230 of the Ministry of Labour and Vocational Training dated 25 July 2012 states *"Workers who attend work regularly in accordance with the number of working days in each month without absence will receive a monthly bonus of at least US$10."*

The demand in this dispute is relevant to the provision of attendance bonus stated in the above notification. Therefore, the Arbitration Council finds that the dispute is a rights dispute.

According to the findings of the facts, the employer currently provides a US$10 attendance bonus per month and the employer withholds the entire attendance bonus when the workers take authorised leave for personal commitment.

The Arbitration Council considers whether or not the workers have the rights to demand the employer reduce attendance bonus in proportion to the number of days of authorised leave that the workers take.

Following its jurisprudence, the Arbitration Council has historically issued Arbitral Awards, which have ordered the employer to pay the attendance bonus in proportion to the number of days of authorised leave that the workers have taken based on the interpretation of Point 1 of the **Notification no. 041 dated 7 March 2011 which states** "*Workers who attend work regularly in accordance with the number of working days in each month without*

absence will receive a monthly bonus of at least US$7." (see the Arbitral Award no. 112/11-Yung Wah 1, Issue 3, 136/11-Cambo handsome (Branch 1), Issue 1, and 154/11-B & N, Issue 7 (2)). However, this Notification was substituted by the Notification no. 230 dated 25 July 2012, Point 2 which states, "*Workers who attend work regularly in accordance with the number of working days in each month without absence will receive a monthly bonus of at least US$10."*

Point 2 of the Notification no. 230 dated 25 July 2012 increased the attendance bonus to US$10 per month and added the term "***without absence"*** which was enforced from 1 September 2012 onwards.

The Arbitration Council finds that there are many kinds of bonuses and the amount of the bonus also differs depending on the owners of each enterprise or the company who have the right to direct and supervise for the purpose of motivating their workers and increasing work effectiveness and productivity. The US$10 of the attendance bonus stipulated in Point 2 of the Notification no. 230 dated 25 July 2012 is not under the rights of the employer to direct. It is not a tool which may be wielded by the employer to ensure performance, but instead the attendance bonus of US$10 is a bonus stipulated in Point 2 of the Notification no. 230 dated 25 July 2012 with which all garment and footwear sector employers must comply. This means the employer is under an obligation to provide the attendance bonus of US$10 per month to workers who attend the work regularly in accordance with the number of working days in each month without absence.

However, the Arbitration Council finds that in Point 2 of the statement of the Labour Advisory Committee dated 11 July 2011 stated that the employer shall provide the attendance bonus of US$10 per month. Point 2 of the Notification no. 230 dated 25 July 2012 states that the workers who attend work regularly in accordance with the number of working days in each month **without absence** will receive a monthly bonus of at least US$10. The Labour Advisory Committee has not interpreted the term **without absence** to mean absence with authorisation or without authorisation or anything else. The Arbitration Council is not able to interpret or assume that the absence here refers to absence with authorisation or without authorisation without taking legal provisions and reasoning into consideration.

The Arbitration Council finds that the term **absence stipulated in the law** includes: absence by taking annual leave, special leave, maternity leave, holidays, and weekly time off. The term absence stipulated in the law does not require the employer to dock the attendance bonus, meaning that the workers get 100 per cent of the attendance bonus, US$10 per month. Absence (authorised leave for personal commitment) is not stipulated in the law, which leads to the question whether the workers shall receive 100 per cent of the attendance bonus, an attendance bonus in proportion to the number of days of authorised leave accessed or no attendance bonus at all.

The Arbitration Council finds that because of the many types of absence, aforementioned, the Arbitration Council cannot interpret or assume **absence** in the Notification no. 230 dated 25 July 2012 to be any particular type of absence. The Arbitration Council therefore considers the demand according to each particular case. In this issue, the workers demand that the employer deduct the attendance bonus in proportion to the number of days of authorised leave that the workers have taken.

The Arbitration Council finds that it is the discretion of the employer to decide to authorise or not authorise the workers to take leave (for personal commitment) based on the administrative procedures, internal rules, and the production requirements of each enterprise and workplace. In the case where the employer decides to authorise a worker to take leave, the employer should know that production of the company will not be interrupted by the workers' absence. The administrative procedures and the internal rules of the enterprise distinguish between authorised leave and unauthorised leave where disciplinary action can be taken against workers who do not comply with relevant leave arrangements. When the workers are authorised to take leave, the leave is taken in accordance with the administrative procedures and internal rules of the enterprise or workplace. In these instances, workers are not subject to any disciplinary action from the employer.

Workers who take authorised leave for personal commitment are considered to have agreement from the employer that the workers will not receive their wage during the period which they are absent from work. The employer also agrees to permit the workers to take unpaid leave on the agreed upon day(s), not to take any disciplinary actions against the workers, and allow workers to maintain both their job and other benefits once they return to work.

The Arbitration Council finds that in the case that the employer authorises the workers to take leave, the employer cannot regard the worker as being absent for the purpose of taking disciplinary action.

The Arbitration Council finds that the phrase "**attend work regularly in accordance with the number of working days in each month"** in the Notification no. 230 dated 25 July 2012 refers to the number of days in each months that the employer requires the workers to attend work or the workers are under obligation to provide service to the employer. In the current practice of the enterprises and establishments in Cambodia, according to the law, the term **"working days in each month"** can be:

1) Full working days of each month (in the case that there is no holiday and other national events determined by laws which means the number of working days is 26 days per month subject to company policy).
2) Some working days of each month (in the case that there is holiday and other national events determined by law which means the number of working days is less

than (1) or just 21-22 days per month depending on the number of holidays and other national events determined by laws and subject to company policy).

3) Some working days of each month (in the case that there is authorisation from the employer which means the number of working days of the month is less than (1) or (2), subject to the company practice and the number of days of authorised leave that the workers take)

Therefore, if the workers attend work in accordance with the number of days that they are obliged to perform in each month, and are then granted authorised leave, the workers are considered to have attended work regularly. The term **"working days in each month"** in such cases does not include holidays determined by laws and authorised leave.

On the other hand, the Arbitration Council finds that if the employer is ordered to pay full wages to workers taking unpaid authorised leave, it's not fair for the employer. This is because the workers have not come to their workplace to perform work for their employer.

Article 103 of the Labour Law said, "*Wages are: …*

- *Bonuses…"*

The Arbitration Council finds that the attendance bonus stipulated in the Notification 230 dated 25 July 2012 is the bonus provided by the employer. Therefore, the attendance bonus is considered as part of a worker's wage.

Paragraph 6 of Article 71 of the Labour Law states *"The labour contract shall be suspended under the following reasons: …*

6. Absence of the worker authorised by the employer, based on laws, collective agreements, or individual agreements…"

Paragraph 1 of Article 72 of the Labour Law states:

> The suspension of a labour contract affects only the main obligations of the contract, that are, those under which the worker has to work for the employer, and the employer has to pay the worker, unless there are provisions to the contrary that require the employer to pay the worker…

In reference to Paragraph 6 of Article 71 and Paragraph 1 of Article 72 of the Labour Law, the Arbitration Council finds that authorised leave is leave requested by the worker and agreed to by the employer. Therefore, the authorised leave is considered a contract suspension between the employer and the worker and the employer is under no obligation to pay the wages to the worker on the day that they take authorised leave for personal commitment. It also means the employer is under no obligation to provide the attendance bonus to the worker on the day that the worker takes authorised leave for personal commitment. Therefore, the employer has no right to withhold the entire attendance bonus from the worker. It only has the right to pay the attendance bonus in proportion to the number of days of authorised leave for personal commitment that the worker has taken.

Based on the reasons and interpretation above, the Arbitration Council decides to order the employer to pay the attendance bonus in proportion to the number of days of authorised leave for personal commitment taken by the workers.

Issue 2: The workers demand that the employer pay outstanding wages and termination compensation within 48 hours upon their resignation or termination of their contracts of employment.

First, the Arbitration Council will consider whether the demand gives rise to a rights dispute or an interests dispute.

Paragraph 5, Article 116 of the Labour Law states *"In the event of termination of a labour contract, wage and indemnity of any kind must be paid within forty-eight hours following the date of termination of work."*

The demand in this dispute is about payment of wages and termination compensation in the event of workers' resignation or termination of contracts of employment within 48 hours upon termination. Therefore, the Arbitration Council finds that the issue is a rights dispute *(see the interpretation on rights dispute in Reasons for Decision, Issue 1 above).*

According to the findings of the facts, in the event of termination of contracts due to workers' resignation or termination made by the employer, the employer pays wages and termination compensation on the 10th of each month which is the regular pay day of monthly wages. The employer has never paid workers outstanding wages and termination compensation within 48 hours upon termination. Therefore, the Arbitration Council finds that the employer fails to comply with provision of Article 116 of the Labour Law.

In previous cases, the Arbitration Council has decided to order the employer to pay the workers' wages and termination compensation within 48 hours upon termination of their contracts of employment *(see Arbitral Award 54/07-Yung Wah 1, Issue 1, 70/07-L.A Garment, Issue 7, and 54/10-USA, Issue 3).*

The Arbitration Panel in this case also agrees with the interpretation in previous cases.

Therefore, the Arbitration Council decides to order the employer to pay the workers' wages and termination compensation within 48 hours upon workers' resignation and termination of their contracts of employment.

Issue 3: The workers demand that the employer provide a 4,000 payment in lieu of lunch per day.

Firstly, the Arbitration Council considers whether the demand is this dispute is a rights dispute or an interests dispute.

Based on the demand, the Arbitration Council finds that there is no law, agreement or collective agreement, the company's internal work rules or any past practice stipulating the

obligation of the employer to provide a 4,000 riel allowance to purchase lunch per day for the workers. Therefore, the Arbitration Council finds that the dispute is an interest dispute.

For an interest dispute, the Arbitration Council considers:

According to Paragraph 2, Article 96 of the Labour Law:

> The collective agreement is a written agreement relating to the provisions provided for in Article 96 - paragraph 1. The collective agreement is signed between:
>
> a) one part: an employer, a group of employers, or one or more organisations representative of employers; and
>
> b) the other part: one or more trade union organisations representative of workers…

Moreover, Clause 9, Prakas 305 of the Ministry of Social Affairs, Veterans and Youth Rehabilitation dated 22 November 2011 about the most representative status of professional organisations of workers in enterprise and establishments and the rights of collective negotiation and to conclude a collective agreement for enterprise and establishments states:

> The union having most representative status has the right to request the employer to negotiate a collective agreement which applies to all workers represented by that union. In this case, the employer has the obligation to negotiate with the union.

Based on Article 96 of the Labour Law and Clause 9 of the above Prakas, the Arbitration Council always considers the most representative status of the parties in dispute for an interest dispute because it finds that the most representative status of the union provides the right to the union to negotiate a collective agreement in the enterprise and to bring the interest disputes to the Arbitration Council to resolve.

Clause 43 of Prakas no.099 of the Ministry of Social Affair, Veterans and Youth Rehabilitation states:

> An arbitral award which settles an interest dispute takes the place of a collective bargaining agreement and shall remain in effect for one year from the date on which it becomes final unless the parties agree to make a new collective bargaining agreement replacing the award.

In reference to the above Clause 43, an arbitral award used to settle an interests dispute takes the place of a collective bargaining agreement. It binds all workers in the company and strips them of their right to strike over interests disputes covered in collective agreement for a one year period and this includes other workers who are not the members of this union. Hence, the Arbitration Council can only settle interests disputes brought in by unions which have MRS in the enterprise or collective unions which have more than half the number of workers as members in the enterprise *(see the Arbitral Award no. 81/04-Evergreen, Reasons for Decision, Issue 4, and 98/04-Great Union, Issue 3).*

In 169/11-Fortune Teo, Issue 5, the Arbitration Council declined to consider an interest dispute because the union that brought the case did not have MRS in the factory

(See Arbitral Award no. 02/11-Pou Yuen, Reasons for Decision, Issue 2, and 66/11-In Han Sung, Issue 1).

In this case, the union is the claimant which does not hold MRS at Top Frame Garment. Therefore, the union does not meet legal requirement to bring interests dispute to the Arbitration Council for consideration.

Therefore, the Arbitration Council decides to decline to consider the workers' demand that the employer provide each worker with a 4,000 riel payment in lieu of lunch per day.

Issue 4: The workers demanded that the employer provided each worker an additional US$10 accommodation and transportation allowance on top of the existing US$7 allowance to reach a total of US$17 per month.

First, the Arbitration Council will consider whether the issue gives rise to a rights dispute or an interests dispute.

Point 1, Notification no. 230 of the Ministry of Labour and Vocational Training dated 25 July 2012 states *"Provide a US$7 (seven) accommodation and transportation allowance per month."*

According to the findings of the facts, the employer provides a US$7 accommodation and transportation allowance per month to the workers. Therefore, the Arbitration Council finds that the employer has fulfilled its obligation to provide an accommodation and transportation allowance to the workers in accordance with the aforementioned notification.

Apart from this, the Arbitration Council finds that there is no provisions in the Labour Law, collective agreement, agreement between the parties, or internal work rules stipulating that the employer is under an obligation to provide an additional US$10 accommodation and transportation allowance per month on top of an existing US$7 accommodation and transportation allowance to reach a total of US$17 for the workers.

Therefore, the Arbitration Council agrees that this dispute is an interests dispute *(see the interpretation on interests dispute in Issue 3 above).*

Therefore, the Arbitration Council decides to decline to consider the workers demand that the employer provided each worker an additional US$10 accommodation and transportation allowance on top of the existing US$7 allowance to reach a total of US$17 per month.

Issue 5: The workers demand that the employer provide at least two shirts per year.

First, the Arbitration Council will consider whether the issue gives rise to a rights dispute or an interests dispute.

Clause 6 of Pakas 307 dated 14 December 2007 on Hygiene and Occupation Safety in Garment and Footwear Manufacturing Factories states:

> An employer must provide at least two sets of clothing per year free of charge… Each set of clothing must contain at least two pieces: a skirt or a pair of trousers and a shirt in the correct size appropriate to the working activities of the worker.

The demand in the issue is about clothing stated in the Prakas above. Therefore, the Arbitration Council finds that the dispute is a rights dispute *(see the interpretation on rights dispute in Reasons for Decision, Issue 1).*

Based on Clause 6 of Prakas 307 above, the Arbitration Council finds that the employer is under an obligation to provide each worker with at least two sets of clothing per year.

According to the findings of the facts, the employer has never provided workers with clothing. Therefore, the Arbitration Council finds that the employer has not fulfilled its legal obligation in providing workers with clothing free of charge in accordance to Clause 6 of Prakas 307 dated 14 December 2007.

In previous cases, the Arbitration Panel orders the employer to provide workers with two sets of clothing per year free of charge in accordance to Prakas 307 dated 14 December 2007 *(see Arbitral Awards no. 74/09-Fortune, Issue 1, no. 144/12-E Garment, Issue 1 and no. 176/11-All Super Enterprise, Issue 4).*

The Arbitration Panel in this case also agrees with the interpretation made in previous cases.

Therefore, the Arbitration Council decides to order the employer to provide each worker with two sets of clothing per year.

Based on the above facts, legal principles, and evidence, the Arbitration Council makes its decision as follows:

DECISION AND ORDER

Part I. Rights dispute:

Issue 1:

Order the employer to pay the attendance bonus in proportion to the number of days of authorised leave for personal commitment taken by the workers.

Issue 2:

Order the employer to pay the workers' wages and termination compensation within 48 hours upon workers' resignation and termination of their contracts of employment.

Issue 5:

Order the employer to provide each worker with two sets of clothing per year.

Type of award: binding award

The award of the Arbitration Council in Part I will be final and is enforceable by the parties in accordance with the MoU dated 3 October 2012.

Part II. Interests dispute:

Issue 3:

Decline to consider the workers' demand that the employer provide each worker with a 4,000 riel payment in lieu of lunch per day.

Issue 4:

Decline to consider the workers demand that the employer provided each worker an additional US$10 accommodation and transportation allowance on top of the existing US$7 allowance to reach a total of US$17 per month.

Type of award: non-binding award

The award in Part II will become binding eight days after the date of its notification unless one of the parties lodges a written opposition with the Minister of Labour through the Secretariat of the Arbitration Council within this period.

SIGNATURES OF THE MEMBERS OF THE ARBITRAL PANEL

Arbitrator chosen by the employer party:

Name: **Seng Vuoch Hun**

Signature: .....

Arbitrator chosen by the worker party:

Name: **Liv Sovanna**

Signature: .....

Chair Arbitrator (chosen by the two Arbitrators):

Name: **Pen Bunchhea**

Signature: .....