

SOUTH AFRICA / JUDGMENT

Alexanderson v Ramahlo and Another (NCT/131926/2019/165) [2019] ZANCT 112 (15 July 2019)

[2019] ZANCT 112

COURT

National Consumer Tribunal

BEFORE

H Devraj, M Nkomo, P Beck

CASE / FILE NUMBER

NCT/131926/2019/165

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Policy

IN

THE NATIONAL CONSUMER TRIBUNAL

HELD

IN CENTURION

Case

Number: NCT/131926/2019/165

In

the matter between:

SEBASTIEN
ALARIK
ALEXANDERSON APPLICANT
NCRDC2351
And
TSIETSI
ISHMAEL
RAMAHLO FIRST
RESPONDENT
ID
NO: [...]
WESBANK
LIMITED SECOND

RESPONDENT**Coram:**

Ms.
H Devraj – Presiding member
Ms
M Nkomo – Tribunal Member
Ms
P Beck – Tribunal Member
Date
of hearing – 8 July 2019
Date
of ruling – 15 July 2019

RULING**AND REASONS****APPLICANT**

1. The Applicant is Sebastien Alarik Alexanderson, a debt counsellor registered in accordance with the National Credit Act 34 of 2005 (“the Act”) (the “Applicant”).

CONSUMER AND RESPONDENTS

2. The First Respondent is a consumer; Tsietsi Ishmael Ramahlo, who is under debt review; (hereinafter referred to as “the Consumer”).
3. The Second Respondent is Wesbank Limited with its business address situated at the 1st Floor, Merchant Place, Corner of Fredman Drive and Rivonia Road, Sandton; (hereinafter referred to as the “Second Respondent”).

BACKGROUND

4. On 21 November 2018; the debt re-arrangement agreement between the Consumer and the Second Respondent was confirmed as an order of the Tribunal as per case number NCT/119615/2018/138(1)P.
5. On 3 May 2019; the Applicant lodged an application with the Tribunal in terms of Section 165 of the Act to have the order rescinded.
6. The basis of the application is that the Consumer is in default of the restructured payment agreement; and the Applicant had failed to retract the main application before it was made an order of the Tribunal.
7. The notice of set down was issued by the Registrar on 3 June 2019 for the hearing on 8 July 2019.

8. On the date of the hearing there was no appearance by the Applicant, the Consumer, or the Second Respondent. On the morning of the hearing; the Registrar attempted to contact the Applicant telephonically; to no avail.

DISMISSAL OF APPLICATION

9. As stated above there was no appearance by the Applicant, Consumer or the Second Respondent or any representative on the date of the hearing.
10. Rule 24 of the National Consumer Tribunal Rules[1] provides that:

“Non- appearance

- (1) If a party to a matter fails to attend or be represented at any hearing or any proceedings, and that party-
 - (a) is the applicant, the presiding member may dismiss the matter by issuing a written ruling; or
 - (b) is not the applicant, the presiding member may-
 - (i) continue with the proceedings in the absence of that party; or
 - (ii) adjourn the hearing to a later date
- (2) The Presiding member must be satisfied that the party had been properly notified of the date, time and venue of the proceedings, before making any decision in terms of subrule (1)
- (3) The Registrar must send a copy of the ruling to the parties.”
11. The Tribunal was satisfied that the parties were properly notified of the date, time and venue for the proceedings.
12. The application was then formally dismissed by the Tribunal on record – ex tempore.

ORDER

13. Accordingly, the Tribunal hereby confirms the ex-tempore order issued at the hearing stating that:

13.1 The application lodged in terms of Section 165 of the Act is hereby dismissed;

13.2 The Applicant is at liberty to re-file a new application, if it wishes to do so; and

13.3 There is no order as to costs.

DATED ON THIS 15th DAY OF JULY 2019

[signed]

Ms. H Devraj

Presiding Member

Ms M Nkomo (Tribunal member) and Ms P Beck (Tribunal member) concurring

[1] GN 789 of 28 August 2007: Regulations for matters relating to the functions of the Tribunal and Rules for the conduct of matters before the National Consumer Tribunal, 2007 (Government Gazette No.

30225) - as amended by Government Gazette Date GN 428 Notice 34405 of 29 June 2011 and Government Gazette GNR.203 Notice 38557 of 13 March 2015

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