

SOUTH AFRICA / JUDGMENT

Barlow v Conradie (3535/2021) [2021] ZAFSHC 109 (19 April 2021)

[2021] ZAFSHC 109

COURT

Free State High Court, Bloemfontein

BEFORE

C Nekosie, PJ Loubser

CASE / FILE NUMBER

3535/2021

Source: saflii.org · Research copy typeset by Esheria. Not court-issued or certified.

Source record

IN THE HIGH COURT

OF SOUTH AFRICA,

FREE

STATE DIVISION, BLOEMFONTEIN

Case No:3535/2021

In the matter between:

STEWART
BARLOW
APPLICANT
and
PRESIDING

COMMISSIONER:

RESPONDENT
AC
CONRADIE

CORAM:

LOUBSER, J et
NEKOSIE, AJ

JUDGMENT

BY: NEKOSIE, AJ

HEARD ON:

19 APRIL 2021

DELIVERED ON: 19 APRIL 2021

-
- [1] This is an application to review and set aside the decision of the Presiding Commissioner of the Small Claims Court of the district of Bloemfontein, AC Conradie, taken on 12 March 2020, dismissing the Applicant's claim for damages.
- [2] The applicant is in person and appear to have drafted his own application. The application does not contain a founding affidavit. The exact ground for the review is not apparent from the documents filed. What appear to be extracts of proceedings in the Small Claims Court is attached. There is no indication that the application was served on any other party. The application is non-compliant with Rule 53 of the Uniform rules of Court and is not properly before court.
- [3] We decided to condone the non-compliance with the rules because the applicant is unrepresented and the information contained in the documents filed is sufficient to come to a determination on the matter.
- [4] The facts of the dispute ascertainable from the record are that the Applicant, plaintiff in the Small Claims Court, claimed damages from N Bester, defendant in the Small Claims Court, for damages arising from Bester's cancellation of the applicant's live music performance at Pretty Gardens Centre.
- [5] The dispute between the Applicant and Bester revolved around whether Bester informed the applicant of the cancellation of his performance prior to the date of the performance via an email on 2 September 2019. The applicant averred that he did not receive such email and handed in a declaration from an IT specialist confirming that he could not find such email on the applicant's computer. Bester on the other hand presented a printout of the email she sent to the applicant to the court.
- [6] The Commissioner, after having remanded the matter for the parties to bring proof of their averments, concluded that applicant failed to prove his case against Bester and his claim was dismissed.
- [7] The grounds for review of a decision of a Commissioner is contained in section 46 of the Small Claims Courts Act 61 of 1984 which reads:
- "The grounds upon which the proceedings of a court may be taken on review before a provincial or local division of the Supreme Court of South Africa are-*
- (a) absence of jurisdiction on the part of the court;
 - (b) interest in the cause, bias, malice, or the commission of an offence referred to in Part 1 to 4, or section 17, 20 or 21 (in so far as it relates to the aforementioned offences) of Chapter 2 of the Prevention and Combating of Corrupt Activities Act, 2004, on the part of the commissioner; and
 - (c) gross irregularity with regard to the proceedings."
- [8] Subsections
-

- (a) and (b) do not find application in this matter and consequently the only possible ground for review is a gross irregularity with regard to the proceedings.
- [9] The Commissioner`s conclusion in the present circumstances cannot be faulted. Bester provided proof of the email that she sent. It is notable that she replied on an email that the applicant previously addressed to her, thus there could not have been a mistake with the address. The commissioner`s acceptance of her evidence was correct.
- [10] There was no irregularity in the proceedings. Consequently the application stands to be dismissed.

I will therefore make the following order:

1. The application is dismissed
2. No order is made as to costs.

C. NEKOSIE, AJ

I concur.

PJ LOUBSER, J

On behalf of Applicant : In person

On behalf of Respondent : No appearance

Source & reproduction note

Judgment wording, source notices and original paragraph numbers are retained. Esheria supplies the layout and this PDF's page numbers; these are not the source pagination. This is a research copy, not an official or certified court document. Check quotations, citations and publication restrictions against the original source before relying on it.

ORIGINAL SOURCE <https://www.saflii.org/za/cases/ZAFSHC/2021/109.html>

CASE PAGE <https://chat.esheria.ai/case-law/south-africa/barlow-v-conradie-unknown-topic-afshc-2021>

Prepared on 9 October 2026 · Esheria