

SOUTH AFRICA / JUDGMENT

Magaya and Another v First National Bank a Division of Firststrand Bank Limited and Another (NCT/133952/2019/165) [2019] ZANCT 148 (9 September 2019)

[2019] ZANCT 148

COURT

National Consumer Tribunal

BEFORE

H Devraj, F Manamela, N Maseti

CASE / FILE NUMBER

NCT/133952/2019/165

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

Source record

SAFLII

Note: Certain

personal/private details of parties or witnesses have been redacted from this document in compliance with the law and SAFLII

Policy

IN

THE NATIONAL CONSUMER TRIBUNAL

HELD

IN CENTURION

Case

Number: NCT/133952/2019/165

In

the matter between: EVERCIOUS
MAGAYA APPLICANT
NCRDC
2449
And
NELLIA
DUBE CONSUMER
ID
NO: [...]
FIRST
NATIONAL BANK A DIVISION OF FIRSTRAND 1ST
RESPONDENT
BANK
LIMITED
NEDBANK
LIMITED 2ND
RESPONDENT

Coram: Ms
H Devraj – Presiding member
Adv
F Manamela – Tribunal Member
Ms
N Maseti – Tribunal Member
Date
of hearing – 5 September 2019

RULING

AND REASONS

APPLICANT

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

CONSUMER AND RESPONDENTS

2. The Consumer is Nellia Dube, who is under debt review. The First and Second Respondents are registered with the National Credit Regulator as credit providers (hereinafter all the Respondents are collectively referred to as “the Respondents”).

BACKGROUND

3. On 22 May 2019; the debt re-arrangement agreement between the Consumer and the First and Second Respondents was confirmed as an order of the Tribunal as per case number NCT/129939/2019/138(1).

4. On 25 June 2019; the Applicant lodged an application with the Tribunal in terms of Section 165 of the Act to have the order varied.
5. The basis of the Application is that the repayment terms and the concession period for Nedbank Limited; was not as per the acceptance letter.
6. The notice of set down was issued by the Registrar on 26 July 2019 for the hearing on 5 September 2019.
7. On the date of the hearing there was no appearance by the Applicant, the Consumer, or any of the Respondents.

DISMISSAL OF APPLICATION

8. As stated above there was no appearance by the Applicant, Consumer or the Respondents or any representative on the date of the hearing.
9. 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) If a matter is dismissed, the Registrar must send a copy of the ruling to the parties.”
10. The Presiding Member of the Tribunal was satisfied that the parties were properly notified of the date, time and venue for the proceedings.
11. The application was then formally dismissed by the Tribunal on record – ex tempore.

ORDER

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

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

12.2 There is no order as to costs.

DATED ON THIS 9th DAY OF SEPTEMBER 2019

[signed]

Ms. H Devraj

Presiding Member

Adv F Manamela (Tribunal member) and Ms N Maseti (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

[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

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/ZANCT/2019/148.html>

CASE PAGE <https://chat.esheria.ai/case-law/south-africa/magaya-and-another-v-first-unknown-topic-anct-2019>

Prepared on 10 October 2026 · Esheria