

SOUTH AFRICA / JUDGMENT

Williams v Cell C Ltd (NCT/300948/2023/75(1)(b)) [2025] ZANCT 1 (18 February 2025) [2025] ZANCT 1

COURT

National Consumer Tribunal

BEFORE

C Sassman, S Hocky, C Ntsoane

CASE / FILE NUMBER

NCT/300948/2023/75(1)(b)

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IN THE NATIONAL CONSUMER TRIBUNAL

HELD IN CENTURION

Case number: NCT/300948/2023/75(1)(b)

In the matter between: JULIE WILLIAMS APPLICANT And CELL C LTD RESPONDENT

Coram:

Adv C Sassman

- Presiding Tribunal member

Mr S Hocky - Tribunal member

Mr C Ntsoane

- Tribunal member

Date of hearing

- 6 February 2025

Date of

judgment

- 11 February 2025

Date of amended judgment

- 18 February 2025

JUDGMENT AND REASONS

(FOR VARIATION OF JUDGMENT)

1. On 11 February 2025, the Tribunal granted a judgment in favour of the applicant in the abovementioned matter. In paragraphs 51 and 61.1 of the judgment, the Tribunal confirmed that the respondent had contravened several provisions of the Consumer Protection Act 68 of 2008 (CPA). The Tribunal only discovered after issuing the judgment that section 4(4)(a) was mistakenly included in the above paragraphs as a contravention.
2. Section 4(4)(a) states that to the extent consistent with advancing the purposes and policies of the CPA, the Tribunal must interpret any standard form, contract or other document prepared or published by or on behalf of a supplier to the benefit of the consumer so that any ambiguity that allows for more than one reasonable interpretation of a part of such a document is resolved to the consumer's benefit.
3. While the consideration and application of section 4(4)(a) was pivotal in the Tribunal's decision, the section itself has not been contravened by the respondent. This bona fide oversight amounts to an obvious error, and the judgment stands to be varied to delete the reference to section 4(4)(a) from the list of contraventions contained in paragraphs 51 and 61.1.
4. Section 165(b) of the National Credit Act[1] empowers the Tribunal to vary its decision or order where there is, among other things, an obvious error or omission.
5. The Tribunal is persuaded that its order granted contained an obvious error by mistakenly including section 4(4)(a) as one of the respondent's contraventions in paragraphs 51 and 61.1. Therefore, the order must be varied to delete the reference to section 4(4)(a) from the paragraphs.

THE ORDER

6. Accordingly, the order granted on 11 February 2025, under case number NCT/300948/2023/75(1)(b), is varied as follows:

6.1 Paragraph 51 is varied to delete the reference to a contravention of section 4(4)(a) and to read as follows:

The applicant has made a case against the respondent and has proven on a balance of probabilities that the respondent has contravened the CPA. In particular, the respondent has contravened the following provisions:

- (a) Section 4(5)(b);
- (b) Section 54(1)(b);

(c) Section 51(1)(b)(i), (ii) and (iii); and

(d) Section 48(1)(a)(i)(ii) and (c)(iii).

6.2 Paragraph 61.1 is varied to delete the reference to a contravention of section 4(4)(a) and to read as follows:

The respondent has contravened sections 4(5)(b); 54(1)(b); 51(1)(b)(i); (ii) and (iii) and 48(1)(a)(i) (ii) and (c)(iii) of the CPA;

7. The amended judgment is attached hereto as “Annexure A”; and

8. There is no cost order.

[signed]

Adv C Sassman

Presiding Tribunal member

Tribunal members Mr S Hockey and Mr C Ntsoane concur.

[1] National Credit Act 34 of 2005.

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