

**IN THE NATIONAL CONSUMER TRIBUNAL  
HELD IN CENTURION**

Case number: **NCT/240891/2022/S141(1)(b)**

In the matter between:

**AYANDA PENNELOPE PRIMROSE MAGWENTSHU**

**APPLICANT**

and

**AZMI EDWARDS**

**RESPONDENT**

Coram:

Mr CJ Ntsoane        -        Presiding Tribunal Member

Adv C Sassman       -        Tribunal Member

Ms Z Ntuli           -        Tribunal Member

Date of Hearing       -        20 June 2023

Date of Ruling        -        22 June 2023

---

**POSTPONEMENT RULING**

---

**APPLICANT**

1. The Applicant is Ayanda Pennelope Primrose Magwentshu (the Applicant), a consumer as defined in Section 1 of the National Credit Act, Act 34 of 2005 (the Act).
2. At the hearing the Applicant represented herself.

**RESPONDENT**

3. The Respondent is Azmi Edwards (the Respondent), a registered debt counsellor with registration number NCRDC3298.

4. At the hearing the Respondent represented himself.

## TERMINOLOGY

5. A reference to a section in this ruling refers to a section of the NCA, and a reference to a rule refers to the Rules of the Tribunal.<sup>1</sup>

## BACKGROUND

6. The matter stems from a complaint that the Applicant lodged with the National Credit Regulator (NCR) against the Respondent, alleging that the Respondent placed her under debt review without her consent.
7. The Applicant alleged that the Respondent's employee misled her and repeatedly advised her that she was not applying for debt review when she completed the application form on 9 April 2022. Further, the Respondent's employee told her that he was working with the NCR and the aim was to assist the Applicant in reducing her repayment to her creditors.
8. At the time of the call, the Applicant had a vehicle finance agreement with Volkswagen Financial Services and a loan agreement with African Bank that she was paying monthly. She alleged that the Respondent's employee promised that he could negotiate on the Applicant's behalf so that her vehicle finance agreement would be settled in full by December 2022.
9. The Respondent alleged that the Applicant was aware that she was entering into a debt review, and such was explained to her. The Applicant insists that she was misled and that she has on numerous occasions, requested the Respondent to furnish her with the recordings of their telephone conversations but in vain.
10. The Applicant referred the matter to the NCR on 14 July 2022. On 12 August 2022, the NCR issued a notice of non-referral stating that *"the complaint does not allege any facts which, if true, would constitute for a remedy under the NCA."*

---

<sup>1</sup> 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).

11. The Applicant decided to refer the matter directly to the Tribunal as permitted by section 141(1)(b). The Applicant seeks that her name be removed from debt review, and clearance from credit bureaus, and that the debt counsellor refunds the R7 000.00 deducted from her account after she terminated this process.

## **APPLICABLE LAW**

12. Rule 18(3) provides that a party to the proceedings may apply for a postponement, and if permitted by the Tribunal, the Registrar will notify the parties of the postponement in writing.

## **REQUEST FOR POSTPONEMENT**

13. On 16 March 2023, the matter was set down for hearing on the merits. However, it was eventually postponed sine die as the Respondent requested to file his condonation application together with an answering affidavit within 15 days of the date of hearing.

14. On 20 June 2023, the matter was set down again for hearing the merits on an unopposed basis as the Respondent failed to adhere to the order dated 17 March 2023.

15. At the hearing, the Respondent requested that the matter be postponed again since according to his records he has filed an application for condonation together with his answering affidavit. He alleges that the opposing papers were filed with the Registrar of the Tribunal timeously.

16. The office of the Registrar confirmed the filing of opposing papers from the Respondent, but the filing was defective. Further that the said defect and non-compliance were communicated with the Respondent via the email address: [complaints@yma-consulting.co.za](mailto:complaints@yma-consulting.co.za).

17. The Respondent confirmed the above email to be one of his business email addresses.

However, he submits that he was not aware of the notification of non-compliance. He confirmed that the email he uses is aedwards@yma-consulting.co.za, which email was used for receiving all other correspondence from the Registrar.

18. The Tribunal has noted with concern that the matter is postponed for the second time and that the Applicant is seeking justice and finality to her matter.
19. The Tribunal refers to the postponement ruling dated 17 March 2023 for the same matter which reads as follows: par 18 *"The Tribunal is not impressed with the manner in which the Respondent has dealt with this matter. The fact that the person who normally deals with matters such as these is no good reason for the fact that the Respondent was unaware of the application. The Respondent conducts a business which requires the filing and service of legal process. Measures should have been put in place to monitor the filing of such process."*
20. The Respondent submits that another reason for him not to be aware of the response from the Registrar is that the person who was employed to deal with this matter is no longer under his employ. It goes without saying that the Respondent did not adhere to the advice of the Tribunal as stated in the extract in the preceding paragraph.
21. However, the Tribunal noted that a different email address was used by the Registrar to notify the Respondent of the non-compliance of his application for condonation and that he was under the impression that his answering affidavit was accepted. It would be in the interest of justice to postpone the matter to give the Respondent an opportunity to properly file a condonation application for the late filing of his answering affidavit.

## ORDER

22. Therefore, the Tribunal makes the following order:

- 22.1 The matter is postponed sine die;

22.2 The Respondent must file his answering affidavit and the condonation application within fifteen (15) business days from the date when this matter was heard on 20 June 2023, and

22.3 There is no order as to costs.

**Mr. CJ Ntsoane**

**Presiding Tribunal Member**

Tribunal members Ms Z Ntuli and Adv C Sassman concur.

**Authorised for issue by The National Consumer Tribunal**

**National Consumer Tribunal**

**Ground Floor, Building B**

**Lakefield Office Park**

**272 West Avenue, Centurion, 0157**

**[www.thenct.org.za](http://www.thenct.org.za)**

