



IN THE HIGH COURT OF SOUTH AFRICA
FREE STATE DIVISION, BLOEMFONTEIN

Reportable:	YES/NO
Of Interest to other Judges:	YES/NO
Circulate to Magistrates:	YES/NO

Case no: 3694/2018

In the matter between:

A DE BRUYIN

Applicant

and

M STOFFBERG N.O AND 11 OTHERS

Respondents

CORAM: C PAGE AJ

HEARD ON:

DELIVERED ON: 31August 2021

Introduction and Background.

[1] Halse, Havemann & Lloyd (“instructing attorneys”) appointed Phatsoane Henny Attorneys (“correspondent attorneys”) as correspondents as per a letter dated 16 July 2018 in respect of proceedings under the above case number at the High Court, Bloemfontein.

The correspondent attorneys submitted a bill of costs for taxation to the Taxing Master to be attended to on 24 March 2021.

- [2] The correspondent attorneys duly notified the instructing attorneys of their intention to tax their bill of costs, whereafter the instructing attorneys filed their notice of intention to oppose the taxation.

Both firms of attorneys were represented on 24 March 2021 before the taxing master. An allocatur in respect of two bills of costs submitted for taxation was issued on the same date.

- [3] Subsequent to the allocatur, the instructing attorneys commenced a review of the taxing master's decision by filing a notice in terms of rule 48(1).

The Rule 48(1) Notice and the issue of condonation.

- [4] Rule 48(1) of the Uniform Rules of Court reads:

“Any party dissatisfied with the ruling of the taxing master as to any item or part of an item which was objected to or disallowed mero motu by the taxing master, may within 15 days after the allocatur by notice require the taxing master to state a case for the decision of a judge”.

- [5] The taxing master indicates in her stated case that the instructing attorneys wished to file the said notice on 22 April 2021, on which day she advised them that they were required to apply for condonation for the late filing thereof. The instructing attorneys proceeded to file the said notice on the next day, 23 April 2021 without her knowledge and without bringing an application for condonation as per her stated case.

- [6] The instructing attorney in his submissions filed in terms of Rule 48(5) comments as follows:

“2.3 It is denied that the Notice referred to in paragraph 2.2.2 was lodged on the 23rd of April 2021- it was lodged on the 16th of April 2021, which is within the time period allowed in terms of Rule 48(1).

2.4 Whether the Taxing Master had knowledge of the lodging of the Notice referred to in paragraph 2.1.1, is irrelevant.”

- [7] On the papers before me it is noted that the date stamp of the registrar on the allocatur is 24 March 2021. The date stamp on the notice in terms of rule 48(1) is 23 April 2021. The filing of the notice of review of the taxation, as it appears, therefor exceeds the 15 day period.
- [8] It seems from what is before me that there is a dispute between the taxing master and the instructing attorneys of when the notice for review of taxation was filed. The instructing attorney holds the view that it is irrelevant whether the taxing master had knowledge of the date of filing of the notice.
- [9] The instructing attorney does not elaborate much on why he states that he filed the notice of review on 16 April 2021 and not 23 April 2021. The issue of timeous filing of the notice is a clear dispute between the instructing attorney and the taxing master.
- [10] It appears that the taxing master proceeded to furnish her stated case even though she held the opinion that an application for condonation for late filing of the notice of review was required. It is not exactly clear from what is before me, but it seems that the taxing master felt obliged to file her stated case under these circumstances where the attorney has simply proceeded to file the notice in terms of rule 48(1) despite the indications that the notice was filed out of time.
- [11] In the premisses I can only accept that the notice in terms of rule 48(1) was filed out of time. The taxing master may not condone the late filing of the notice in issue. As is provided by rule 27 of the uniform rules of court, a party may apply to court for the extension of any time prescribed by the rules.

[12] The matter is not properly before me, and I cannot proceed to review the disputed items in the bills of cost.

C PAGE AJ

INSTRUCTING ATTORNEYS: HALSE,HAVEMANN & LLOYD
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AND TO: THE TAXING MASTER
HIGH COURT
BLOEMFONTEIN
REF T7527