

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

Case number: 58738/2016/114(1) NCA

In the matter between:

**INEZ CARMEN COOKE**

**Applicant**

and

**EDCON**

**Respondent**

CORAM:

Adv. J. Simpson (Presiding member)

Ms. D Terblanche (Member)

Adv. FK Manamela (Member)

Date of hearing – 10 November 2016

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**JUDGMENT AND REASONS**

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**THE PARTIES**

1. The Applicant in this matter is **Inez Carmen Cooke** (the "Applicant") an adult female consumer represented by Accord Debt Solutions CC.
2. The Respondent is EDCON, a registered company and credit provider carrying on business from 1 Press Avenue, Edgardale, Crown Mines, Johannesburg.

**THE APPLICATION**

3. The Applicant brought the application in terms of section 114 of the National Credit Act, Act 34 of 2005, as amended (the NCA).

## JURISDICTION

4. This National Consumer Tribunal (the Tribunal) has jurisdiction to hear this matter in terms of section 114 of the NCA. The section provides as follows:

*"114. If a statement is not offered or delivered within the time required by this Part, the Tribunal, on application by the consumer, may—*

*(a) order the credit provider to provide the statement; or*

*(b) determine the amounts in relation to which the statement was sought."*

## THE HEARING

5. The application was heard on 10 November 2016.
6. The Applicant was represented by Mr Oltman of Oltman Attorneys, appointed by Accord Debt Solutions CC.
7. The Respondent did not enter an appearance to defend the matter and was not present nor represented at the hearing.
8. The matter accordingly proceeded on a default basis.

## BACKGROUND

9. The Applicant has a credit agreement with the Respondent under reference number [8...] which appears to be the Applicant's identity number.
10. The Applicant requested Accord Debt Solutions to assist her with her financial situation. She signed a power of attorney allowing Accord Debt Solutions to request a statement of her account

on her behalf from the Respondent. Accord Debt Solutions requested the Respondent to provide statements of the Applicant's account on at least two occasions, which had not been provided up to the date of the hearing.

11. This is therefore a straightforward case of a consumer requesting a statement from a credit provider and the credit provider not providing it, forcing the consumer to approach the National Consumer Tribunal (the Tribunal) for relief in terms of section 114 of the NCA.

## CONSIDERATIONS BY THE TRIBUNAL

### Default judgment

12. As the Respondent did not oppose the application and was not present at the hearing, this matter had been dealt with on a default judgment basis.
13. Rule 13(2) of the Rules of the Tribunal provides that if a party does not dispute allegations made in an application those allegations may be deemed as admitted.
14. The above is premised on the Respondent having been made aware of the application and the allegations against it.
15. In this matter the Tribunal is not satisfied that Respondent was properly served with the Application and advised of the application in accordance with Rule 25(3) to exercise its' rights accordingly.
16. Based on the papers filed with the Tribunal the application was signed on the 11<sup>th</sup> of August 2016 and Applicant's certification of service reflects that the application was served via registered post on 11<sup>th</sup> of August 2016. However the registered slip in support of service of the 11<sup>th</sup> of August 2016 is dated 27 June 2016, a date preceding the purported service date by approximately 6 weeks.

## ORDER

17. The Tribunal accordingly -
  - 17.1. Refuses the order sought
  - 17.2. There is no order for costs.

Thus done and handed down on this 7<sup>h</sup> day of December 2016.

[signed]

Ms. D Terblanche

Member

CONCURRING:

Adv. J. Simpson (Presiding Member) and Adv. FK Manamela (Member)