

IN THE NATIONAL CONSUMER TRIBUNAL  
HELD IN CENTURION

Case Number: **NCT/396952/2025/141(1)(b)**

In the matter between:

**NICOLAS DAVID**

APPLICANT

and

**ADRI DE BRUYN**  
**(NCRDC998)**

1<sup>ST</sup> RESPONDENT

**NATIONAL CREDIT REGULATOR**

2<sup>ND</sup> RESPONDENT

Coram:

Dr MC Peenze - Presiding Tribunal Member

Adv C Sassman - Tribunal Member

Mr S Hockey - Tribunal Member

Date of hearing - 28 October 2025

Date of ruling - 31 October 2025

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**JUDGMENT AND REASONS**

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**THE PARTIES**

1. The applicant is Nicolas David (the applicant), a consumer as defined in section 1 of the National Credit Act 34 of 2005 (the NCA). At the hearing, the applicant represented himself.
2. The first respondent is Adri de Bruyn, a registered debt counsellor with registration number NCRDC998, trading as DC Experts (the first respondent). The first

respondent was the former debt counsellor for the applicant. The first respondent did not oppose this application and did not appear at the hearing.

3. The second respondent is the National Credit Regulator (the NCR), a state organ and a juristic person established under section 12 of the NCA to regulate the consumer credit market and ensure compliance with the NCA. No order is sought against the second respondent, who did not oppose this application or appear at the hearing.

## **TERMINOLOGY**

4. A reference to a section in this judgment refers to a section in the NCA, and a reference to a regulation refers to the NCA Regulations, 2006 (the regulations).<sup>1</sup> A reference to a rule in this judgment refers to the Rules of the National Consumer Tribunal (the Tribunal).<sup>2</sup>

## **APPLICATION TYPE**

5. This is an unopposed application in terms of section 141(1)(b), in which the applicant, with leave granted by the Tribunal, seeks redress against the first respondent. The applicant alleges that the first respondent contravened certain provisions of the NCA and her conditions of registration.

## **JURISDICTION**

6. The Tribunal has jurisdiction to hear this matter in terms of section 27(a)(ii) and has powers conferred upon it in terms of section 150 to make orders concerning alleged contraventions of the NCA.

## **PROCEEDING ON A DEFAULT BASIS**

7. On 11 July 2025, the applicant served the notice and application on the respondents by registered mail. Additionally, the Tribunal Registrar correctly sent all necessary notices, including the notice of complete filing, the notice of set down, and the leave to refer judgment, to the respondents.
8. The panel is satisfied that service was carried out in accordance with the applicable procedural rules.

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<sup>1</sup> Published under Government Notice R489 in Government Gazette 28864 of 31 May 2006.

<sup>2</sup> Published under GN 789 in GG 30225 on 28 August 2007 as amended by GN 428 in GG 34405 on 29 June 2011, GN R203 in GG 38557 on 13 March 2015 and GN 157 in GG 39663 on 4 February 2016.

9. Under rule 13(5), any factual allegation in the application or referral not expressly denied or admitted in the answering affidavit is deemed admitted. Since the respondents did not submit their answering affidavits, the allegations stated in the applicant's application are deemed to be admitted.
10. The applicant did not pursue a default order under rule 25(2).

## **BACKGROUND**

11. The applicant applied and was accepted for debt review in June 2020 in terms of section 86(1).
12. The applicant made consolidated monthly payments to DC Partner (Pty) Ltd, a Payment Distribution Agent (the PDA), as per the payment plan introduced by the first respondent.
13. At the end of 2022, the applicant was repeatedly contacted by one of his creditors, RCS, who stated that they had not received any payment. The applicant complains that, despite paying R2,800.00 every month since June 2020, his outstanding balance remains at R102,833.88. He wants to know where his money has gone and would like it refunded to him with interest, so he can settle his debts.
14. The applicant requests that all the money he paid during his debt review process be refunded. The applicant alleges that the first respondent did not comply with her conditions of registration as a debt counsellor.

## **ISSUE TO BE DECIDED**

15. The issue before the Tribunal is whether the first respondent engaged in prohibited conduct in terms of the NCA and whether the relief requested by the applicant can be granted.

## **THE LAW APPLICABLE TO THIS APPLICATION**

16. Section 86(1) states that a consumer may apply to a debt counsellor in the prescribed manner and form to have the consumer declared overindebted.
17. Section 52(5)(c) of the NCA obliges registrants, such as debt counsellors, to comply with their conditions of registration and the provisions of the NCA.

18. Regulation 11 states that a debt counsellor must not collect and distribute monies on behalf of consumers.

## **CONSIDERATION**

19. The Tribunal has carefully examined the provisions of the NCA in its consideration as to whether the first respondent engaged in any prohibited conduct or dereliction of required conduct in terms of the NCA. The Tribunal also considered whether the first respondent may have transgressed her conditions of registration.
20. Based on the evidence before the Tribunal, the applicant applied for debt review, and the debt review activities conducted by the first respondent were authorised under section 86(1). The NCR examined all debt review documents, including distribution statements and prescribed debt review forms.<sup>3</sup> Therefore, the evidence indicates that the first respondent assessed the applicant's credit profile and submitted the necessary forms (16, 17.1, and 17.2) to the NCR, and that her obligations under conditions A2 and A5 were carried out with the applicant's consent. There is no reason for the Tribunal to conclude that the first respondent failed to follow proper procedures in placing the applicant under debt review in 2020 and in submitting the required forms to the NCR.
19. According to the distribution statement from the PDA, payments were made to the credit providers in accordance with regulation 10A(9)(g). There is no evidence before the Tribunal that the first respondent collected and distributed monies on behalf of the applicant.
20. The initial payment was made by the PDA on 28 July 2020, amounting to R2,800.00. This payment covered PDA fees and restructuring fees. Subsequent payments appear to have been distributed to the credit provider, with the last recorded payment occurring on 26 April 2023, also for R2,800.00. Circular 01 of 2018 (DC fee guidelines) states that the debt counsellor must collect application, administration, restructuring, and legal fees within the first two months of the debt restructuring process. The fees paid to the debt counsellor are compliant with the DC fee guidelines.
21. In its notice of non-referral, the NCR also confirms its assessment of the Form 17W, dated 23 May 2023, as issued by the first respondent. Form 17W aims to confirm a

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<sup>3</sup> See page 10 of the Tribunal record, para 2.2.

debt counsellor's suspension of debt counselling services due to a consumer's non-cooperation. No evidence was presented to the Tribunal to challenge the issuance of the Form 17W by the first respondent. Accordingly, the Tribunal is persuaded that the first respondent ceased providing her debt counselling from 23 May 2023. The Tribunal further accepts the NCR's confirmation, as stated in its notice of non-referral, that the Debt Help System shows the applicant transferred to a new debt counsellor, NCRDC1234, on 19 June 2023. During the hearing, the applicant confirmed that his new debt counsellor has since obtained a magistrates' court order, the details of which are not before the Tribunal.

24. Given that the debt review process does not prevent credit providers from charging interest rates as per the repayment plan, a creditor's statements might show an outstanding balance which includes the agreed interest rate. Consequently, the outstanding balance may remain high. The applicant did not persuade the Tribunal that the high outstanding balance on his RCS account resulted from any unprofessional conduct by the first respondent.
25. Therefore, having considered that the payment distribution to creditors was done, and that the debt counsellor complied with the DC fees guidelines, the applicant did not persuade the Tribunal that the first respondent was derelict in her duties towards the applicant. The Tribunal finds no evidence that the debt counsellor has contravened provisions of the NCA in relation to the applicant's allegations.

## **ORDER**

26. Accordingly, the Tribunal makes the following order:
  - 26.1 The application is dismissed; and
  - 26.2 No cost order is made.

Dr MC Peenze

Presiding Tribunal Member

Tribunal members Mr S Hockey and Adv C Sassman concur.

Authorised for issue by The National Consumer Tribunal

National Consumer Tribunal

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