

REPUBLIC OF NAMIBIA



HIGH COURT OF NAMIBIA, MAIN DIVISION, WINDHOEK  
PRACTICE DIRECTIVE 61

HC-MD-CIV-MOT-GEN-2017/00074

In the matter between:

**ECO-NAM BUILDING AND CIVILS CC**

**APPLICANT**

and

**OKUVAKUATJIVI INVESTMENTS CC**

**RESPONDENT**

**Neutral Citation:** *Eco-Nam Building and Civils CC v Okuvakuatjivi Investments CC* (HC-MD-CIV-MOT-GEN-2017/00074) [2018] NAHCMD 100 (20 April 2018)

**CORAM:** MASUKU J

**Heard on:** 14 March 2018

**Delivered on:** 20 April 2018

---

**ORDER**

---

1. The respondent is granted condonation for the late filing of its heads of argument.
2. The applicant's application in terms of Rule 97(3) is hereby dismissed.

3. The applicant is ordered to pay the costs of this application.
4. The matter is hereby removed from the roll and is regarded as finalised.

---

### REASONS

---

[1] The matter before this honourable court is one where the plaintiff/respondent had withdrawn the action against defendant/applicant. Subsequently, an ancillary issue arose due to the respondent filing its heads of argument late, in terms of an order made on 3 October 2018.

[2] The respondent tendered a reasonable explanation for the delay in filing the heads of argument and the court hereby grants condonation.

[3] The applicant has not made out a case for why costs should be awarded to it for the reason that the applicant never came on record to defend the action.

[4] In conclusion, the application is dismissed with costs.

---

TS Masuku  
Judge

APPEARANCES:

APPLICANT:

G September  
of Malherbe & Associates, Windhoek

RESPONDENT:

M Schurz  
of Delport Legal Practitioners,  
Windhoek