

IN THE MAGISTRATE'S COURT AT LABASA
APPELLATE JURISDICTION

Civil Appeal No. 2 of 2018
SCT Claim No. 563 of 2017

BETWEEN : **MIR WATI**

APPELLANT

AND : **PRADEEP CHAND**

FIRST RESPONDENT

SAVITA DEVI

SECOND RESPONDENT

Appearance : **Appellant** in person
Respondents no appearance

Judgment : **22 March 2019**

JUDGMENT

1. The Appellant is appealing the order of the Small Claims Tribunal (*Tribunal*) made on 11 October 2017. The notice of appeal was filed on 12 October 2017, and was within the 14 days required under *section 33(3)* of the *Small Claims Tribunal Act (Act)*.
2. On 7 March 2018, the Appellant and the Respondents confirmed to the court that they have received the copy record for the Tribunal proceeding. Directions were issued for filing of submission.

3. The Appellant filed her submission on 28 May 2018. There was no submission filed by the Respondents. The appeal was heard on 17 October 2018. At the hearing, the Appellant make oral submission. There was no appearance from the Respondents.

Grounds of appeal

4. The Appellant stated that the referee was unfair in her decision and that prejudicially affected the results of the claim.

Law

5. Section 33(1) of the Act state that the order of the Tribunal can only be appealed on the following two grounds ;-
 - a. *“the proceeding were conducted by the referee in a manner which was unfair to the appellant and prejudicially affect the result of the proceeding;*
or
 - b. *the tribunal exceeded its jurisdiction.”*

Appellant’s case

6. She stated in her written submission that in the Tribunal, she had one witness and the Respondents did not have any witness and the case was dismissed. Therefore, the decision was unfair and she did not agree with the decision.
7. In her oral submission, there is nothing submitted to support the grounds of appeal submitted.

Respondent’s case

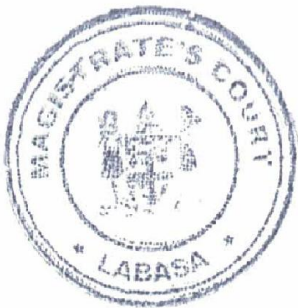
8. There was no submission filed and they did not appear during the hearing.

Analysis and determination

9. The ground of appeal of unfairness comes under *section 33(1)(a)* of the *Act*. That the referee conducted the proceeding in an unfair manner to the Appellant that prejudicially affect the result of the proceeding.

10. The manner in which the proceeding must be conducted are stated in **Sheet Metal Plumbing (Fiji) Ltd v Deo**[1999] FJHC 26, where *Fatiaki.J* stated;-
“As to the manner or procedure required to be followed by the referee in conducting a proceeding under the Decree these are principally to be found in section 24 to 29 (inclusive) under the heading HEARING.”
11. There was no submission that one of the procedures explained in section 24 to 29 was not provided to the Appellant. There was nothing submitted from the Appellant to show the unfair conduct of the referee. Accordingly, the appeal does not have merit.
12. I have considered the copy record, the written submission filed by the Appellant, the applicable laws, and the relevant case authorities in this judgment.
13. In this judgment, I dismissed the appeal with no order as to costs

28 days to appeal.



A handwritten signature in blue ink, appearing to read "C. M. Tuberi". The signature is stylized and written over a horizontal line.

C. M. Tuberi
RESIDENT MAGISTRATE