

BETWEEN: Charley Noviel
Claimant

AND: Mansen Saul
Defendant

Date of Hearing: Friday 29th day of September, 2017
Date of Judgement: Friday 29th day of September, 2017 at 11:12 am
Venue: Efate Island Court – Court-Room, Joint-Court Onto, Port-Vila
Before: Justice Roy Tinning (Presiding Justice)
Justice Timothy Kalangis (Member)
Justice Nicola Kaluatman (Member)

Island Court Clerk: Alida Tchivi

In Attendance: Claimant – Charley Noviel
Defendant – Mansen Saul (No appearance in Court)

DEFAULT JUDGMENT

An application has been filed by **Charley Noviel** who is the plaintiff before this court in pursuant to Rule 1(2) of the Island Court Procedure Rules of 2005.

This is a normal civil claim for breach of formal contract between the Claimant and the Defendant namely **Mansen Saul**. The Claimant alleged that on the 10th of December 2016 the Defendant and himself, entered into an agreement. The agreement was for the Defendant to borrow money from the Claimant's Business Lending Scheme with a fortnight loan repayment of *Twenty Percent (20%)* interest. The principal amount borrowed is Eight Thousand Vatu. Mr Noviel stated clearly on his statement that the defendant failed to comply with the agreement and the outstanding Vatu claimed by the Claimant is now *Twenty Eight Thousand and Eight Hundred Vatu (28'800Vt)*.

Both parties were summoned and served directly. This matter was supported in open court. Claimant appeared in Court at the time and date of hearing when called; however Defendant was not present and that no reason was given for his non-appearance. Court has noted on the Court Deposition that Defendant has also not filed his Defence.

Island Courts (Civil Procedure) Rules No. 028 of 2005 (2) – Non-Attendant of defendant reads: *If a defendant does not appear at the time for the hearing of the claim, the court shall, provided it is satisfied that the statement of claim has been served on the defendant and that there is no good reason for the defendant's non-attendance: (d) determine in the absence of the defendant the claim of the claimant!*



The Court is satisfied and therefore, the Court proceeds with the determination of the matter in the absence of the defendant.

Having read, heard and considered the application of claim made by the Claimant in this matter Charley Noviel on behalf of his unpaid sum;

This Court is satisfied and hereby makes the following Orders:


1. The Court orders that the Defendant 'Mansen Saul' to pay Vt 28'800 by fortnightly instalment of 9'600 vatu commencing this coming government pay date 6th October 2017 directly to the Efate Island Court until the outstanding of 28'800 vatu is settle in full.
2. Both parties need to respect and comply with these orders. Failure to the above, party may apply orally or in writing to the Supervising Magistrate for Enforcement of the order or judgment if it remains unsatisfied.
3. Parties have right to appeal from that judgment to the Magistrate's Court within 30 days from the date of this judgement

DATED at Port Vila this 29th day of September, 2017.


BY THE COURT



Justice Timothy Kalangis
 (Member)



Justice Roy Tinning
 (Presiding Justice)





Justice Nicola Kaluatman
 (Member)