

IN THE HIGH COURT OF SWAZILAND

HELD AT MBABANE

CASE NO. 1031/08

In the matter between:

**SWAZILAND NATIONAL HOUSING
BOARD**

APPLICANT

And

MOSES SIMELANE

RESPONDENT

CORAM: Q.M. MABUZA -J

FOR THE APPLICANT: MR. MNTSHALI OF SIBUSISO
B. & ASSOCIATES

FOR THE RESPONDENT: MR. NDLOVU OF MASINA
MAZIBUKO & CO.

RULING 25/7/08

[1] Payment of the arrears claimed was made on the 7/3/08 to the applicant.

[2] The application was launched on the 20/3/08 and an **ex parte** order issued on the 8/4/08.

[3] The applicant failed to disclose this material fact to the court on an ex parte application especially as Mr. Mduduzi Dlamini signed the founding affidavit on the 20/3/08 long after the payment. He should have advised his attorneys.

[4] The cancellation of the agreement flows from a breach and this breach was articulated as rental arrears for two months. This breach was rectified and the cause of action has been removed. The rule is discharged and the application dismissed with costs on the ordinary scale.

Q.M. MABUZA -J