

**IN THE COURT OF APPEALS OF IOWA**

No. 8-844 / 08-0598  
Filed November 26, 2008

**NATIONAL CREDIT ACCEPTANCE, INC.,**  
Plaintiff-Appellant,

**vs.**

**CECELIA IBSON WAGNER,**  
Defendant-Appellee.

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Appeal from the Iowa District Court for Polk County, Robert J. Blink,  
Judge.

National Credit Acceptance, Inc. appeals the dismissal of an application  
and motion to confirm an arbitration award. **REVERSED AND REMANDED  
WITH DIRECTIONS.**

Jamie L. Cox of Willson & Pechacek, P.L.C., Council Bluffs, for appellant.

Cecelia Wagner, Des Moines, pro se appellee.

Considered by Huitink, P.J., and Vaitheswaran and Potterfield, JJ.

**VAITHESWARAN, J.**

National Credit Acceptance, Inc. (NCA) appeals the dismissal of an application and motion to confirm an arbitration award. We reverse and remand with directions.

***I. Background Proceedings***

NCA filed an application and motion to confirm an arbitration award against Cecilia Wagner. After receiving the application, Wagner filed a resistance and cross-motion to vacate the application. NCA responded with an affidavit from its operations manager attesting in pertinent part that (1) Wagner entered into a written agreement for the use of a credit card, (2) the agreement provided for resolution of disputes through binding arbitration, (3) a dispute arose concerning the failure to pay for credit card purchases, (4) a notice of arbitration was sent to Wagner, (5) Wagner did not file a response, (6) the arbitrator entered an award in favor of NCA for \$9367.92, and (7) the arbitrator served a signed copy of the award on Wagner on August 31, 2005.

Following a hearing, the district court dismissed the petition, reasoning that NCA “failed to prove the exact nature of” the terms of the credit card agreement and “failed to prove that an ‘agreement’ containing those terms was, in fact, provided to [Wagner].” NCA appeals.

***II. Analysis***

Iowa Code section 679A.11 (2007) provides for district court confirmation of arbitration awards. It states that when a party applies for confirmation of an arbitration award, the district court “shall confirm” the award unless grounds are urged for vacating it within the time limits imposed by other provisions.

Wagner filed a motion to vacate asserting the absence of an agreement and corruption in “the entire arbitration process and procedure,” including issuance of the arbitration award. To the extent she was challenging the absence of an arbitration agreement, she was required to file the motion “within ninety days after delivery of a copy of the award to the applicant.” Iowa Code § 679A.12(3). To the extent she was asserting corruption, she was required to file the motion “within ninety days after those grounds [were] known or should have been known.” *Id.*

As noted, the arbitration award was sent to Wagner on August 31, 2005. Although the award letter was general, it placed Wagner on notice that the award was based on “an agreement providing that this matter shall be resolved through binding arbitration in accordance with the Forum Code of Procedure.” Therefore, Wagner was obligated to raise both grounds of her motion within ninety days of August 31, 2005. More than ninety days elapsed before Wagner filed her motion to vacate. Accordingly, under Iowa Code section 679A.11, the district court was obligated to confirm the award. *\$99 Down Payment, Inc. v. Garard*, 592 N.W.2d 691, 694 (Iowa 1999) (stating section 679A.11 “clearly imposes a duty upon the district court to confirm an arbitration award upon application of a party unless a timely ground to vacate or correct the award has been filed.”).

We find it unnecessary to address NCA’s remaining arguments. We reverse the district court’s dismissal of the application and motion to confirm arbitration award and remand for entry of an order confirming the arbitration award.

**REVERSED AND REMANDED WITH DIRECTIONS.**