

BETWEEN

AEH

APPLICANT

AND

ZVO

RESPONDENT

Date of Order:

17 September 2013

Referee:

Referee Eyre

ORDER OF THE DISPUTES TRIBUNAL

The Tribunal hereby orders that ZVO to pay AEH, trading as GH, the sum of \$282.00 by 5pm Wednesday 2 October 2013.

Facts

[1] ZVO travelled in taxis operated by AEH, trading as GH (a taxi company), on a number of occasions between 2007 and 2009. ZVO has not paid for six separate taxi rides taken during that period.

[2] AEH has filed this claim to recover the total sum of \$658.10, which includes \$129.00 for unpaid taxi fares, \$390.00 for account fees charged monthly on the unpaid amount, \$35.00 for the Disputes Tribunal filing fee and \$103.00 for collection costs. ZVO did not attend the Disputes Tribunal hearing.

Issues

[3] The issues I am required to determine are:

- (i) What were the terms of the contract between AEH and ZVO?
- (ii) Have the terms of the contract been breached?
- (iii) If so, what is the amount that ZVO is required to pay AEH for this breach of contract?

Decision

What were the terms of the contract between AEH and ZVO?

[4] The law of contract recognises and enforces verbal contracts, where the terms of that contract are clear.

[5] AEH claims that when ZVO used his taxis, he entered into a verbal contract for service with AEH that included a term that he would pay for the use of the taxi and that if he did not pay the fare immediately then there would be fees and collections costs added to his

account. AEH has given evidence that the tariffs applied to the fare were set out on a sticker inside the taxi door. AEH also states that there was a sticker that essentially stated that any unpaid taxi fares would incur collection costs and account fees. AEH also explained that when each fare was unpaid, the usual practice was for the passenger to be provided with a chit, which stated the amount of the fare and that account fees and collections costs would be added to the fare.

[6] AEH did not have a copy of either the stickers or the chit with him at the hearing. However, AEH's evidence is undisputed as ZVO did not attend the hearing and he did not provide any evidence to dispute AEH's evidence.

[7] I accept AEH's evidence regarding ZVO's use of his taxis and the terms of the contract. The evidence is accepted, as AEH had a clear computerised transaction list which states the details of all of ZVO's taxi rides. The terms that AEH has outlined as the terms of the contract are consistent with the usual practice in the taxi industry and in the collection of outstanding debts. I accept that ZVO would have been aware of these terms from the stickers inside the taxi and this would have then been confirmed on the taxi chit he received.

[8] I therefore find that it was a term of AVO's contract with AEH that he would pay the taxi fare within one month of receiving the taxi chit and in addition to the taxi fare, he would also be required to pay account fees and collection costs.

Have the terms of the contract been breached?

[9] The law of contract requires parties to a contract to comply with the terms of that contract, unless there is a legal reason not to.

[10] AEH states that ZVO has not paid the outstanding taxi fares or associated charges. This evidence is confirmed by the transaction list AEH submitted as evidence and is undisputed by ZVO, who did not attend the hearing.

[11] I therefore find that ZVO breached the contract, by not paying the taxi fare within one month of using the taxi.

If so, what is the amount that ZVO is required to pay AEH for this breach of contract?

[12] If a contract has been breached by one party, then the law requires the party who has suffered the breach of contract to be put back in the position they could have been in had the contract not been breached.

[13] In this claim, it is clear that as ZVO has not paid for his use of the taxi on six different occasions, he has breached the contract and is required to pay for the taxi fares, which is a sum of \$129.00.

[14] Furthermore, it is also clear that it was a term of the contract that he would pay account fees and collection costs in addition to the taxi fare. The exact amount of collection costs and account fees were not specified on the sticker in the taxi, therefore the law requires that ZVO only pay what would be considered reasonable charges.

[15] AEH has claimed \$390.00 as account fees, which is an account fee of \$2.50 added each month. However, AEH has acknowledged that when considered as an overall figure the sum of \$390.00 is not reasonable, he has suggested that an account fee of \$50.00 would be reasonable to cover the administrative work involved in pursuing the debt, which involved phone calls to ZVO, texts and regular statements over an almost six year period. I accept AEH's evidence on this point is reasonable and I find that ZVO is required to pay \$50.00 in account fees.

[16] AEH has also claimed \$103.00 for collection costs which he had paid to an external credit agency. AEH has given evidence that the work carried out by the collection agency included two visit to ZVO at his home and numerous phone calls and letters. I find that the amount of \$103.00 is reasonable for this work, as it reflects the work involved and in particular the need for personnel to visit ZVO at his home on two occasions.

[17] Finally, AEH has also claimed \$35.00 for the Disputes Tribunal filing fee. However, as explained to AEH in the hearing that amount is only able to be awarded in exceptional circumstances, as set out in the Disputes Tribunals Act 1988. This claim does not fall within those exceptional circumstances.

[18] The total amount that ZVO is required to pay AEH is \$282.00, which is comprised as follows:

Taxi fares:	\$129.00
Account fees:	50.00
Collection costs:	<u>103.00</u>
Total:	\$282.00