

**BETWEEN**

**BN**  
APPLICANT

**AND**

**YM**  
RESPONDENT

Date of Order:

23 February 2015

Referee:

Referee Smallholme

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**ORDER OF THE DISPUTES TRIBUNAL**

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**The Tribunal hereby orders that the application is dismissed.**

**Reasons**

[1] On 13 October 2014 BN placed four Live Bets via the Internet on an international football match between Mexico and Panama. BN bet \$3,300.00 being \$2,000.00, \$1,000.00, \$200.00 and \$100.00.

[2] BN stated she had taken a calculated risk, intending for each pair of bets to offset the other, but that she made a mistake by betting on first half goal scores. BN claims \$3,300.00 in refund relying on her mistake.

[3] The issue is whether there had been a qualifying mistake under the Contractual Mistakes Act 1977, allowing the Tribunal an opportunity to grant relief to BN by way of a refund of \$3,300.00.

[4] The three types of mistakes, as they would be applicable here are:

- (i) Where BN was influenced, to the YM's knowledge, by a mistaken belief (a unilateral mistake known to the other party).
- (ii) Where BN and the YM were influenced by the same mistaken belief (a common or mutual mistake).
- (iii) Where both BN and the YM both had a mistaken belief, but on different matters (different mistakes about the same subject).

[5] BN maintained she had made a unilateral mistake known to the YM. She claimed the YM had to have known about her mistaken belief when she placed the bets, because it would be aware that no reasonable better in her position would have placed those bets when seeking to hedge against loss.

[6] I do not accept this argument. With on-line betting, the YM does not have an opportunity to engage with the other party to their contract prior to the betting so cannot understand the bettor's intentions in placing their bets. It has been held by the Courts that "known" does not include "ought to have known".

[7] Further, BN's attempts to withdraw the bets, immediately after she placed the bets is information after the fact and does not provide knowledge to the YM prior to the formation of the contract.

[8] The YM had properly informed BN of the terms and conditions of on-line and live betting by way of the terms and conditions on its website (which were accepted by BN when she became an account holder; and by way of reminder on the screen shown prior to each bet being submitted (which states "Once you click 'Submit bet' the bet cannot be cancelled").

[9] In addition, on 7 and 16 February 2013, BN had been informed by the YM (by telephone) of its policy not to allow bets already placed online to be cancelled.

[10] BN had been informed of her legal position, as regards the conditions of her contract for betting as an account holder with the YM.

[11] BN also maintained it was not in the public interest for the Tribunal to uphold the YM rules. To the contrary I consider that, in fairness to all punters, rules are necessary so that they can rely on the integrity of the betting system – particularly for live betting where the odds can change in real time and fluctuate constantly based on the in-game state of play. The Board cannot be made to exercise its discretion by the Tribunal.

[12] The claim is dismissed for these reasons.