



(Disputes Tribunal Act 1988)
ORDER OF DISPUTES TRIBUNAL

[2024] NZDT 15

APPLICANT **B Ltd**

RESPONDENT **OQ**

SECOND **ST**
RESPONDENT

The Tribunal orders:

The claim is struck out.

Reasons

1. The matter involves the recovery of a debt that KS, director of B Ltd, says is owed by OQ and ST in relation to electrical work carried out by B Ltd on their house at [address], during 2015 and 2016. The invoice for the work was issued to them under Invoice No. 1136 dated 19 May 2016. KS says OQ and ST have not paid the invoice and the amount of \$32,350.71 plus GST is still owing to B Ltd. He has reduced the claim amount to \$30,000.00 so as to bring the claim within the jurisdiction of the Tribunal.
2. OQ and ST have raised the defence that this claim is time-barred by the Limitation Act 2010 (the Act). If the claim is time-barred and a defence has been raised then I must strike out the claim.
3. Under the Act, the limitation period for most "money claims" will be six years after the act or omission on which the claim is based. This time limit starts as soon as the money is owed, which in this case was 18 June 2016 being the due date on Invoice No. 1136 dated 19 May 2016. After this time period has expired the person owing the debt can raise a limitation defence against the claim (s11 of the Act).
4. There is an exception to this if the debtor has acknowledged the debt to the claimant in writing, or has paid part of the debt, in which case the time limit starts from the date the debt was acknowledged in writing or the date of the last payment (s47 of the Act).

5. At the hearing on 12 September 2023 KS said he believed he had evidence of the acknowledgement of the debt by OQ. OQ denied there had been any such acknowledgement. The matter was adjourned to allow KS to respond with further information and / or submissions as to whether the claim is time barred in terms of sections 11 and 47 of the Act.
6. The matter was called to be continued today by teleconference. There was no attendance by KS as there was no response to the phone number attributed to him. As there has been no evidence provided by KS of acknowledgement of the debt in writing by OQ or ST, or of part payment of the debt by them, I strike out the claim.

Referee: B Curtis
Date: 23 January 2024



Information for Parties

Rehearings

You can apply for a rehearing if you believe that something prevented the proper decision from being made: for example, the relevant information was not available at the time.

If you wish to apply for a rehearing, you can apply online, download a form from the Disputes Tribunal website or obtain an application form from any Tribunal office. The application must be lodged within 20 working days of the decision having been made. If you are applying outside of the 20 working day timeframe, you must also fill out an Application for Rehearing Out of Time.

PLEASE NOTE: A rehearing will not be granted just because you disagree with the decision.

Grounds for Appeal

There are very limited grounds for appealing a decision of the Tribunal. Specifically, the Referee conducted the proceedings (or a Tribunal investigator carried out an enquiry) in a way that was unfair and prejudiced the result of the proceedings. This means you consider there was a breach of natural justice, as a result of procedural unfairness that affected the result of the proceedings.

PLEASE NOTE: Parties need to be aware they cannot appeal a Referee's finding of fact.

Where a Referee has made a decision on the issues raised as part of the Disputes Tribunal hearing there is no jurisdiction for the District Court to reach a finding different to that of the Referee.

A Notice of Appeal may be obtained from the Ministry of Justice, Disputes Tribunal website. The Notice must be filed at the District Court of which the Tribunal that made the decision is a division, within 20 working days of the decision having been made. There is a \$200 filing fee for an appeal.

You can only appeal outside of 20 working days if you have been granted an extension of time by a District Court Judge. To apply for an extension of time you must file an Interlocutory Application on Notice and a supporting affidavit, then serve it on the other parties. There is a fee for this application. District Court proceedings are more complex than Disputes Tribunal proceedings, and you may wish to seek legal advice.

The District Court may, on determination of the appeal, award such costs to either party as it sees fit.

Enforcement of Tribunal Decisions

If the Order or Agreed Settlement is not complied with, you can apply to the Collections Unit of the District Court to have the order enforced.

Application forms and information about the different civil enforcement options are available on the Ministry of Justice's civil debt page: <http://www.justice.govt.nz/fines/about-civil-debt/collect-civil-debt>

For Civil Enforcement enquiries, please phone 0800 233 222.

Help and Further Information

Further information and contact details are available on our website: <http://disputestribunal.govt.nz>.