



(Disputes Tribunal Act 1988)  
**ORDER OF DISPUTES TRIBUNAL**

District Court

[2023] NZDT 35

**APPLICANT**     **BH**

**RESPONDENT**   **MW Ltd**

**The Tribunal orders:**

MW Ltd is to pay \$1,875.00 to BH on or before 21 April 2023.

**REASONS**

**Brief Details of Claim**

1. After email exchanges and a visit to the premises, in September 2020, BH and IB booked [Venue] (operated by MW Ltd) for their wedding on 7 January 2023. The contracted price was \$5,850. A deposit of \$600 was paid in October 2020.
2. By email dated 5 December 2022, MW Ltd advised BH and IB that MW Ltd could no longer host the wedding, because of an incident that had recently occurred.
3. BH and IB were forced to find an alternative venue at extremely short notice. The available venue was HX.
4. BH has lodged a claim against MW Ltd seeking compensation of \$3,751.00 being: \$2,554.00 for the venue, equipment and services provided by HX; \$333.00 for the cost to hire a car for 3 days, and \$864 being the additional cost to hire a larger marquee than would have been required at [Venue].

**Issues**

5. The issues for the Tribunal to determine are whether BH should be granted relief or compensation and if so, how much.

**Should BH be granted relief or compensation and if so, how much?**

6. A party to a contract may cancel the contract if, by words or actions, the other party to the contract repudiates the contract by making it clear that that party does not intend to perform its obligations under the contract (S.36 Contract and Commercial Law Act) or if the other party to the contract breaches a term of the contract (S. 37 CCLA).
7. The cancelling party may apply for relief (S.43 and 45 CCLA) and or damages for repudiation and/or breach (S.49 CCLA).
8. I find that MW Ltd has repudiated the contract and has breached the term of the contract to provide the premises as it had contracted to do. BH was entitled to cancel the contract and go elsewhere, which he has been forced to do.

9. BX (One of the Venue's owners) said that there was an unforeseen personal event of a sensitive kind that led to MW Ltd's decision to not provide its premises for the wedding. BX said that there can be no guarantee that a premises will be available on the day, and referred to significant weather events, and the [Environmental Event]. However, from the limited information BX felt able to give to the Tribunal, it appears that MW Ltd made a decision not to host the wedding, rather than being prevented from hosting it because of an external event such as weather or an [environmental event]. Therefore, I find that this is not a situation to which the Frustrated Contract provisions of the CCLA apply.
10. I have decided that BH is entitled to damages in compensation. The reasons are as follows:
- (a) BH and IB were unable to have their wedding at their chosen venue.
  - (b) I accept BH's evidence that he and IB had considered and looked at other venues, and had chosen [Venue].
  - (c) I also accept BH's evidence that, prior to booking [Venue], he and IB had checked out HX and decided it was not what they wanted for their wedding.
  - (d) BH's evidence that there was no choice of venue given that MW Ltd withdrew from its obligations under the contract only 1 month before the wedding. I am mindful that it was also close to the Christmas/New Year period which is likely to have made it more difficult for BH and IB to find an alternative venue.
  - (e) I accept BH's evidence that HX was the only venue available at such short notice.
  - (f) This meant that BH and IB were faced with having their wedding at a venue that that had previously found not to be a suitable choice for their wedding.
  - (g) I find in the circumstances that BH is entitled to compensation because of the cost, time and inconvenience of changing venues, and because he and IB had to use a venue they had previously rejected as not one they would choose. All of this would have placed pall on their enjoyment of the days leading up to their wedding and the day itself.
11. I have decided MW Ltd is pay compensation of \$1,875.00 to BH for the following reasons:
- (a) Even though the venue and the extra costs claimed by BH were less than the \$5,850 that he and IB would have paid to MW Ltd, they have endured stress and inconvenience and had to take time out of work to make the new arrangements for their wedding. This included not just the venue, but additional equipment that would have been provided by MW Ltd, but that was not provided by HX.
  - (b) I have taken into account BX's submission that BH and IB have spent less on their wedding venue than they would have with MW Ltd. However, I have decided there should be compensation for those matters I have set out in Clauses 10(g) and 11(a) above. It is not a matter simply of looking at comparative venue costs.
  - (c) I have decided not to allow BH's claim in full because to do so would mean that he would have paid nothing for his wedding venue and associated costs, which in my view would not be just.
  - (d) I have decided that compensation of 50% of the costs claimed is the fair and just outcome.

**Referee: J.F. Tunnicliffe**  
**Date: 28 March 2023**



## 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>.