



(Disputes Tribunal Act 1988)
ORDER OF DISPUTES TRIBUNAL

[2023] NZDT 609

APPLICANT BQ

RESPONDENT ST

The Tribunal orders:

ST is to pay BQ \$12,900.00 by 18 December 2023.

Reasons

1. BQ met ST when they were both working in [City 1]. They became friends.
2. In 2021 and 2022 BQ made multiple payments to ST. The amounts ranged from \$100.00 to \$2,500.00.
3. BQ submitted that the payments were loans, and that ST always promised to pay him back.
4. BQ loaned ST a total of \$20,760.00. ST has paid back \$9,350.00, leaving a balance of \$11,410.00.
5. BQ had been in [City 1] for study, and in February this year he was due to return back to [Town A]. Before he left, he asked ST to sign a basic document confirming that ST owed \$12,900.00. This figure includes interest.
6. Despite many promises to pay, ST has not made any payments since early 2023.
7. BQ's claim in this Tribunal seeks payment of \$12,900.00.
8. The hearing took place by phone on 27 November 2023. BQ participated in the hearing. I was not able to contact ST on the phone number provided.
9. BQ gave detailed oral evidence about the loans to ST. In addition, BQ provided:
 - a. A copy of a letter that BQ sent to ST detailing all of the payments that he made to ST. The letter contains relevant details, including the amount loaned and (in some instances the date and the account details).
 - b. A copy of the brief document that ST signed in February 2023 confirming the loan.
 - c. Screenshots of text messages between ST and BQ, including messages from ST asking for money.

10. On one occasion, ST gave BQ his [game console] as “collateral” for a loan. BQ submitted that he did not want the [game console], but it remains in his possession. BQ estimated that it has a current market value of approximately \$500-\$600.
11. ST is no longer communicating with BQ. On the basis that it is likely that BQ will retain the [game console], it is appropriate to deduct the value of this item from the amount that is due to be repaid.
12. I am satisfied that BQ has proven that he made loans to ST totalling \$20,760.00.
13. ST owes BQ the outstanding balance of the loan which is \$11,410.00.
14. There are no proven terms about re-payment and therefore the loan is repayable upon demand.
15. Although there is limited evidence about the parties’ agreement / understanding in respect of interest payable on the loans, ST signed a document confirming that as at February 2023 he owed the sum of \$12,900.00. This figure includes interest, and therefore it seems that ST accepts that interest is owed on the loan.
16. The claim is proven.

Referee: Nicholas Blake
Date: 1 December 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>.