



(Disputes Tribunal Act 1988)
ORDER OF DISPUTES TRIBUNAL

[2023] NZDT 582

APPLICANT EN

APPLICANT MN

RESPONDENT II

The Tribunal orders:

1. II, is to refund EN and MN \$845.95, on or before 14 December 2023.

Reasons

2. On 4 May 2022 EN and MN purchased four lamps from II via II's New Zealand website. The lamps arrived and were stored until the house was completed. When EN and MN went to use the lamps, it was discovered that they had United States plugs, and were for 110 V power. Such plugs and lamps are not usable in New Zealand without a stepdown voltage changer. EN and MN then communicated with II regarding a refund, however this was not accepted.
3. EN and MN claim a refund relying on the Consumer Guarantees Act 1993 (CGA) and seek a refund of the cost of the lamps \$845.95, and the filing fee.
4. The CGA implies guarantees into contracts that goods are reasonably fit for purpose. Section 8(1)(b) requires that goods are reasonably fit for any purpose a consumer makes known expressly or by implication to the supplier. If goods fail to meet the guarantee of acceptable quality, and the failure is substantial, sections 21 and 22 CGA enabled a consumer to reject the goods and seek a refund.
5. II holds itself out as a supplier who for all intents and purposes is New Zealand based. It is reasonable to infer that electrical goods sourced from II will be of a type suitable for use in New Zealand. I find that it is implied that electrical appliances supplied in New Zealand will be of a suitable type and voltage that they can be used in New Zealand. The lamps are therefore not fit for purpose. The failure is substantial as the lamps cannot be used for purpose which they have been purchased. Therefore, EN and MN are able to reject the lamps, and seek a refund.
6. I order that EN and MN will be refunded the cost of the lamps. They have also sought an award of the application costs, unfortunately, I am barred from awarding costs by section 43 Disputes Tribunals Act 1988.

Referee: C D Boys

Date: 23 November 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>.