



(Disputes Tribunal Act 1988)
ORDER OF DISPUTES TRIBUNAL

District Court

[2023] NZDT 450

APPLICANT **EN**
RESPONDENT **QN**
SECOND **DN**
RESPONDENT

The Tribunal orders:

The claim against QN and DN is dismissed.

Reasons:

Introduction:

1. QN has a painting business that he and EN work at for a week or two per month. When working for the business, EN is paid for his work.
2. In August of 2022, QN was painting his son's house. He asked EN to bring some trestles over. EN asked QN if he was painting the house and QN said he was. EN said he would help.
3. The issue to be decided is did QN agree to pay EN by giving him paint and if so, is he now required to pay EN \$1250.00 in lieu of the paint.

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4. A contract is formed when parties decide to exchange something of value, creating an obligation to perform a particular duty which is legally enforceable. A contract is binding when the parties agree on clear and certain terms. The terms of a contract define the rights and obligations of the parties.
5. The parties agree that there was no agreement by QN to pay EN in cash for helping to paint the house. QN said that he was not getting paid for the work and so EN wouldn't be paid either. QN offered EN some pork for helping. EN said that he did not need any meat.
6. EN said QN offered to pay him in paint before he started work and that he left a note in the rear of QN's Ute telling him what paint he wanted. QN denies any such agreement was entered into and denies seeing a note.

- 7 EN claims that because he wasn't given the paint that he was promised, he invoiced QN for the work that he had done. The invoice was presented on the 23rd of March 2023. The invoice was for \$50.00 per hour at 25 hours, a total of \$1250.00.
- 8 There was no evidence other than oral testimony presented to support either position.
- 9 Having considered the above, I find insufficient evidence to prove, on the balance of probabilities, that QN agreed to pay EN in paint for helping him to paint the house. I therefore find QN is not obligated to pay the invoiced amount of \$1250.00
- 10 The claim for \$1250.00 is dismissed.

Referee: Verdun Tawhara
Date: 6th day of July 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>.