



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

[2023] NZDT 727

**APPLICANT** I Ltd

**RESPONDENT** K Ltd

**The Tribunal orders:**

K Ltd trading as ML must pay I Ltd \$2,507.68 by 4pm on 22 January 2024.

**Reasons:**

1. The parties rent their respective premises from the same landlord and share a power meter which is on I Ltd's premises, meaning I Ltd is primarily responsible for the costs of the power. The parties initially had an agreement regarding the sharing of the cost of the power used by them both. I Ltd claims that from March 2022 K Ltd has breached the agreement between them by not paying for its agreed share of the power and claims \$2,507.68 from K Ltd.
2. No representative from K Ltd attended today's hearing. Several calls were made to the telephone numbers provided to the Tribunal, but these were not responded to. The absence of a party does not prevent a hearing going ahead.
3. The issues to be determined by the Tribunal were:
  - a. Is there a valid and enforceable agreement between the parties?
  - b. If so, has K Ltd breached the agreement?
  - c. What remedy, if any, is available to I Ltd?

**Is there a valid and enforceable agreement between the parties?**

4. The relevant law is the law of contract. In order to be bound by a contract, both parties must be certain about the essential terms of the contract. The law of contract recognises and enforces verbal contracts, where the terms of that contract are clear.
5. In this case, I find there was a valid and enforceable contract between the parties. I say this because the parties had operated under the terms of this contract from 2017 until March 2022. These terms were that I Ltd would pay the first \$151.33 of the power bill and K Ltd would pay the balance. K Ltd had previously accepted these terms by paying I Ltd for all amounts of power in excess of \$151.33 until March 2022.
6. The evidence shows that K Ltd had told I Ltd that a different base amount should be negotiated but has not agreed to any different amount with I Ltd, including an alternative amount suggested by I Ltd. Therefore, as no subsequent agreement has been made between the parties, the original agreement stands and binds the parties.

**If so, has K Ltd breached the agreement?**

7. On the evidence provided I find that K Ltd has breached the agreement between the parties by not paying for its agreed share of power after March 2022. The evidence provided to the Tribunal shows that the amounts owing by K Ltd to I Ltd for the month April 2022 to August 2023 total \$2,507.68. K Ltd's failure to pay these amounts constitutes a breach of contract.

**What remedy, if any, is available to I Ltd?**

8. The remedy for breach of contract is for the breaching party to put the other party in the position they would have been in had the contract not been breached. This means that the respondent should pay the applicant \$2,507.68.

**Referee: K. Armstrong**  
**Date: 18 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>.