



(Disputes Tribunal Act 1988)
ORDER OF DISPUTES TRIBUNAL

District Court

[2023] NZDT 409

APPLICANT IU Ltd

RESPONDENT NO

The Tribunal orders:

NO shall pay IU Ltd \$4,016.55 by 18 August 2023.

Reasons:

1. In August 2020, the Respondent contacted the Applicant law firm seeking legal assistance with a relationship property matter. The Applicant sent the Respondent an engagement letter on 13 August 2020 setting out the Applicant's fee structure and terms and conditions. The Respondent acknowledged receipt by email undertaking to sign and return it but failed to do so.
2. The Respondent received his first invoice on 27 August 2020 in the amount of \$1,072.13 for time and attendance fees. The Respondent paid the invoice in full without query.
3. In September 2020, the Respondent also requested assistance with a business matter. The Respondent was invoiced \$1,004.54 on 30 September 2020 for time, attendance and expenses regarding the business and relationship matters. The Respondent did not query or dispute the invoice upon receipt but failed to pay the invoice.
4. On 31 October 2020, the Respondent was invoiced \$2,116.72 for further work and expenses during October regarding the relationship matter. The Respondent did not query or dispute the invoice upon receipt but again failed to pay the invoice.
5. On 21 December 2020, the Respondent spoke to the Applicant's accounts manager stating that he did not know that the Applicant charged on a time and attendance basis, despite this being set out in the engagement letter and in the first invoice which he paid and continued to instruct the Applicant after having done so.
6. The Applicant offered the Respondent the options of a discounted lump sum payment and a payment plan but the Respondent did not respond.
7. As the unpaid invoices were not disputed by the Respondent and the Respondent would not respond to the Applicant's communications, the Applicant sent the debt to [Collection Agency 1] in April 2021, which incurred costs of \$745.26. The Applicant also charged penalty interest of \$144.93, pursuant to the terms and conditions of engagement, bringing the debt to \$4,011.55.

8. As [Collection Agency 1] had been unsuccessful, the Applicant referred the debt to another [Collection Agency 2], in June 2022, which incurred an additional \$5.00 lodging fee, bringing the claim to \$4,016.55. The Applicant filed this claim for that amount on 8 May 2023.
9. The Respondent did not raise a dispute with the invoices until 5 July 2022 to [Collection Agency 2] citing the fact that he had not signed the engagement letter and that he shouldn't be charged for "every single paper clip" and financial hardship. The Respondent did not raise any dispute with the services he received and continued to instruct after the first invoice was received and paid.
10. On 8 June 2023, the Applicant amended its claim to \$5,748.37 to include ongoing penalty interest.
11. On 29 June 2023, the Applicant amended its claim again to \$5,964.37 with further penalty interest.
12. The Respondent failed to attend the teleconference hearing and made no written submissions in defence of the claim.
13. The Tribunal finds that there has been no genuine dispute raised by the Respondent. Not reading the engagement letter or invoice detail on the first invoice and paying it and complaining about paper clips, which do not appear on any of the invoices, is not a reasonable dispute over the services rendered.
14. The outstanding debt for the two invoices is \$3,121.36. Penalty interest is allowed under the terms and conditions of engagement and was charged at \$144.93 at the time the debt was sent to [Collection Agency 1] and at the time when the Respondent raised his dispute in late June or on 5 July 2022.
15. The collection agency fees are allowed by the terms of engagement and it is noted that the Respondent only responded and raised his dispute once the collection agencies were involved. Accordingly, the Tribunal allows those fees, being \$750.26.
16. Once the account was in dispute in early July 2022, the matter should have been filed in the Disputes Tribunal then, rather than waiting nearly a year and then adding further penalty interest after filing, which at 2% per month would be a windfall for the Applicant's delay.
17. The Tribunal finds that the Respondent owes the Applicant \$4,016.55.

Referee: L Mueller

Date: 26 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>.