



(Disputes Tribunal Act 1988)
ORDER OF DISPUTES TRIBUNAL

[2023] NZDT 526

APPLICANT J Ltd

RESPONDENT IN

The Tribunal orders:

The claim is dismissed.

Reasons

1. J Ltd brings a claim against IN on the basis that:
 - a. IN was a customer of X Ltd.
 - b. IN owed X Ltd \$3,232.72 as at 16 April 2020.
 - c. The terms of IN's contract with X Ltd allowed X Ltd to transfer a debt to a third party.
 - d. X Ltd transferred the debt to J Ltd in June 2022.
2. IN disputes all aspects of the claim.
3. The proceedings were originally filed in the District Court at [City 1]. The proceedings were transferred to the Disputes Tribunal at [Town] by [Judge] on 7 July 2023.
4. The hearing took place today, 19 October 2023. IN attended the hearing in person. NJ, representing J Ltd, attended the hearing by phone with the consent of the Tribunal.
5. IN submitted that:
 - a. She has never been a X Ltd customer.
 - b. She has never lived at the address that is on the X Ltd account ([Address]). That address, in [City 2], used to be the location of a nightclub.
 - c. She has lived in [District] since 2017, and she has invoices from her power supplier for the period from 2017 to 2021.
 - d. The name on the X Ltd statement ("[redacted]") is not her name.
6. J Ltd is the applicant in these proceedings. It must prove its claim to the standard of "more likely than not".

7. The only evidence linking IN to this debt is a single “final bill” from X Ltd dated 26 March 2020.
8. J Ltd’s submissions state that “prior to 26 March 2020 [IN] entered into a credit contract with [X Ltd]”. However, J Ltd did not provide a copy of that credit contract, or of any other type of engagement between X Ltd and IN.
9. My finding is that J Ltd has not proven that IN was a customer of X Ltd and that IN owed X Ltd \$3,232.72, having regard to:
 - a. IN’s oral evidence; and
 - b. The confirmation from [energy company] that IN was a customer of theirs from October 2017 until March 2021 for her property in [District]; and
 - c. The absence of any credit contract or application by IN to become a customer; and
 - d. The absence of any evidence that IN owned, resided at, or had any connection with the property at [Address].
10. The claim is dismissed.

Referee: Nicholas Blake
Date: 19 October 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>.