



(Disputes Tribunal Act 1988)
ORDER OF DISPUTES TRIBUNAL

District Court

[2023] NZDT 213

APPLICANT **ME**

RESPONDENT **B Ltd**

The Tribunal orders: The claim is dismissed.

Reasons:

- 1) On 5 September 2022 the applicant travelled on flight bookings made with the respondent from [City A] to [City B] with the intention of connecting with an ongoing flight to [International City 1]. The applicant says that his plane was late leaving [City A] and when he arrived in [City B] to check in at the international terminal, the flight to [International City 1] had closed. The applicant had to buy more tickets to travel to [Country] the following day, 6 September. Compensation is sought for the cost of the new tickets, accommodation and 'transfers.'
- 2) The respondent says the applicant's domestic flight from [City A] departed 6 minutes late and arrived in [City B] 7 minutes late. This allowed 80 minutes to transit between the domestic and international terminals, including for the collection of luggage. There was not sufficient time for the applicant to catch the booked international flight. Even if there was no delay with the flight from [City A], there was no chance of the applicant catching his international flight.
- 3) The relevant law is the general law of contract. The issue to be determined by the Tribunal is whether there was any breach by the respondent of an implied contractual duty of reasonable care [with respect to the receipt and processing of the applicant's booking] to justify the awarding of the compensation sought.
- 4) I accept the case for the respondent, as summarised above. The information made available to customers of B Ltd for customers travelling abroad is that sufficient time should be allowed between the likely arrival of a domestic flight at, in this case, [City B], and the departure, for check-in, and related, processes. That time should factor in, as a matter of common sense, in my view, the possibility of some delay in the initial domestic flight, that being, it has to be said, a not uncommon occurrence. The applicant should have allowed at least 90 minutes between the arrival at [City B], and the check-in at the international terminal.
- 5) In this case the applicant's flight from [City A] to [City B] arrived at its destination only 7 minutes after the scheduled time. That can hardly be reasonably regarded as significant. The point made by the respondent appears to have substance that even if the [City A] to [City B] flight had arrived exactly on time, the applicant would still not have had sufficient time to do all that had to be done to enable him to get on to the flight for [Country].

6) I acknowledge the applicant's unhappiness at the way, from his point of view, he was spoken to by B Ltd customer service staff in [City B] when he missed the final check-in at the international terminal, but am unable to find that there has been here any breach by the respondent of a relative contractual, or other, duty.

Referee: G.P.Rossiter

Date: 17 April 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>.