



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

[2023] NZDT 613

**APPLICANT** MM

**RESPONDENT** YY

**The Tribunal orders:**

YY is to pay MM \$380.00 on or before the 21st day of November 2023.

**Reasons:**

**Introduction:**

1. MM entered into an agreement with YY to rent a room in her boarding house at \$190 per week, to be paid fortnightly.
2. On the 12th of November 2022 MM paid \$380 being two weeks bond. The bond had been requested by YY to ensure that MM would move in on the 22<sup>nd</sup> of November 2022.
3. On the 18th of November YY sent a list of conditions that were labelled [House Rules] to MM. There were a total of 15 rules.
4. MM contacted YY and said that he had not been told about these rules in advance and that he did not think he could live in the boarding house and asked for the return of the \$380 that he had paid.
5. YY refused to refund the money and MM is seeking the return of the \$380 paid as bond.
6. YY did not attend either this hearing or the previous hearing and this hearing was conducted in her absence.

**The issues to be resolved are:**

1. Were the "house rules" a variation to the original contract?
2. Did MM clearly communicate that he did not agree to the variation?
3. Is MM entitled to a refund of the \$380 bond?

**Were the house rules a variation to the original contract?**

4. The general principles of the law of contract apply to this dispute. A contract is an agreement that the parties intend to be legally bound by. It involves an exchange of promises and becomes binding when the parties agree on clear and certain terms. The terms must be clear at the start of the contract.

5. A variation to a contract is permissible if there is a meeting of minds of the parties as to the variation.
6. I find that the house rules are a variation to the contract because they change the conditions under which MM may live at the house.
7. MM had not been told about the house rules at the time that he agreed to move in, or at the time he paid the bond. MM's view was the house rules were a serious imposition and he wouldn't feel comfortable living there.
8. YY considered that the house rules were there to promote good order for the people living at the house.
9. MM stated that he thought YY was being unreasonable because when he asked if the house rules could be negotiated, she said that she would not change them.
10. I have considered the rules and I find they require new occupants to purchase goods, so they are able to comply. I agree that the rules are onerous and should have been discussed before MM consented to move in or pay over the bond money.

**Did MM clearly communicate that he did not agree to the variation?**

11. I find that MM clearly communicated that he did not consent to the variation, there was no meeting of the minds of the parties.
12. MM provided evidence to the Tribunal of a conversation on [messaging app] between himself and YY. He said that he had agreed to move in before he had seen the long list of requirements, he said he would not have moved in had he seen the house rules first.

**Is MM entitled to a refund of the \$380 paid in bond?**

13. The evidence given at the Tribunal is consistent with the documents provided. They confirm that the purpose of the payment of two weeks bond prior to moving in was to ensure that the new housemate would move in. In this case information about the house rules was only provided after the money had been paid over.
14. I have found that the house rules were a significant imposition, and they should have been disclosed as the conditions of living in that house prior to the payment of bond.
15. I find that MM is entitled to a refund of the bond being \$380.

**Referee: Verdun Tawhara**  
**Date: 2 November 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>.