



(Disputes Tribunal Act 1988)
ORDER OF DISPUTES TRIBUNAL

District Court

[2023] NZDT 350

APPLICANT MN

RESPONDENT KB

The Tribunal orders: KB is ordered to pay MN the sum of \$3,100.00. Payment of this sum is ordered no later than 28 August 2023.

Reasons:

- 1) There was no appearance of the respondent, and the hearing proceeded in her absence. On 30 December 2022, the applicant lent the respondent the sum of \$8,600.00. He says the amount “repayable on the loan was \$16,800.00 over 7 years.” The applicant further says that the respondent agreed to repayments of \$100.00 per week.
- 2) The applicant borrowed the sum he lent the respondent from [Finance company]. MN says the term of the loan from this finance company is 7 years, and the total amount payable is \$16,800.00. He seeks an order for the total amount of his liability to [Finance company]. In this regard, firstly, there is no evidence from the applicant verifying what his loan arrangement with [Finance company] is. Secondly, there is no evidence from which I can find that the applicant’s deal with the respondent is the same, or identical, to that of MN’s arrangement with [Finance company], that is, with respect to the respondent’s obligation to the applicant. Thirdly, I am quite unable to conclude that the agreement MN had with KB meant that if the latter missed one or more payments, the applicant could then demand the full amount he had lent the respondent.
- 3) I accept that, at the very least, the applicant’s agreement with the respondent obliged KB to pay MN the sum of \$100.00 per week. On this basis, the applicant is entitled to an order for the number of weeks’ payments missed, from the date on which the loan was paid, to today’s date. This is 31 weeks, and at \$100.00 per week, the amount owing by the respondent is \$3,100.00.

Referee: G.P.Rossiter

Date: 14 August 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>.