



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

District Court

[2023] NZDT 296

**APPLICANT** NB

**RESPONDENT** TT

**The Tribunal orders:**

TT is to pay NB 560.00 within 30 days of the date of this Order.

**Reasons:**

1. TT did not attend the hearing and did not provide any defence to the claim. The absence of a party does not prevent the hearing from proceeding. Section 42 of the Disputes Tribunal Act provides that where the case of any party is not presented to the Tribunal after a reasonable opportunity has been given to that party to do so, the matter may be resolved by the Tribunal on such evidence or information as is before it.
2. According to NB's evidence at the hearing, NB and TT were friends. TT, the owner of a bar, asked NB to weld some of the chairs for the bar, as NB is a welder. They verbally agreed on a rate of \$20.00 per chair.
3. On 28 September 2022, NB welded 10 chairs, but the weather became bad, and he left. An employee took the chairs inside. On 5 October, he completed 8 more chairs, which an employee again took inside upon completion, and on 12 October, he completed another 10. When he was finished the last set, he asked TT for his payment.
4. NB says TT became angry and denied that NB had welded 28 chairs. According to NB, TT claimed he welded only 24, and that this was all he would pay for. The angered NB, and he left the premises without being paid, kicking down the stack of chairs he had welded as he left. He did not believe any of the chairs were damaged. He went straight to the Police station and was advised to file with the Tribunal.
5. I accept that NB and TT had a verbal agreement for NB to weld chairs for TT at a cost of \$20.00 each. In the absence of evidence to the contrary, I accept that NB welded 28 chairs for TT, and was not paid for the work. This was a breach of the agreement by TT, and according to contract law, NB is entitled to be put back in the position he would have been in had the agreement not been breached. TT is to pay NB \$560.00.

**Referee: Kaho**

**Date: 21 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>.