



(Disputes Tribunal Act 1988)
ORDER OF DISPUTES TRIBUNAL

[2023] NZDT 630

APPLICANT **PI**
RESPONDENT **NQJ**
SECOND **XB**
RESPONDENT

The Tribunal orders:

The claim is struck out.

Background

1. In August 2019, PI was contacted by MX (a vet based in [Town]) to assist with de-stocking animals at a local farm owned by NQ.
2. NQ was elderly and in poor health. NQJ became involved due to concerns about the welfare of NQ's stock.
3. PI made an agreement with NQ to assist with de-stocking and improvement of the remaining stock, on the understanding that he (and his friend NT, who was assisting PI) would receive commission on the ultimate sale of the improved animals.
4. Around that time, NQJ Animal Welfare Inspector NI also asked PI to routinely check on NQ, due to concerns about NQ's mental and physical health. PI has faithfully carried out that task since 2019.
5. PI and NT went to work. They de-horned, drenched and castrated the bulls, and they sent away unsuitable stock to the sales or to the works. They reduced the stock numbers to 145, which (PI submitted) the farm could comfortably support. The condition of those remaining animals continued to improve.
6. In September 2020, NQJ decided to seek a temporary Enforcement Order requiring the number of stock to be further reduced to 60 animals.
7. NQJ's rationale was that although the stock condition had improved significantly with PI's involvement, if PI ceased to be involved then NQJ considered that NQ would not be able to cope with any more than 60 animals.
8. NQJ obtained the stock reduction order from the [Court]. The timeframe for compliance was 30 November 2020. The order was not complied with by that date.

9. NQJ took steps to enforce the order. They initially approached PI to act as stock agent for the stock reduction, but then withdrew that offer due to concerns about PI's conflict of interest.
10. NQJ engaged QX to act as stock agent. The excess animals were sold and the proceeds of the sale, less expenses, was paid to NQ.
11. PI's claim seeks compensation on the grounds that NQJ's action deprived him of the income that he was going to receive per the terms of his agreement with NQ.

Discussion

12. The Disputes Tribunal can only hear certain types of claims.
13. It can hear claims that are based in contract or "quasi-contract". It can hear claims about careless damage to physical property. It can hear claims that are brought under the Consumer Guarantees Act 1993, the Fair Trading Act 1986, and certain other specific laws.
14. PI did not have a contract with NQJ about the sale of the stock. He had a contract with NQ.
15. PI does not have a claim in quasi-contract. It is not the case that NQJ has been unjustly enriched at PI's expense.
16. PI's claim is not about damage to property, and it is not brought under the Consumer Guarantees Act, the Fair Trading Act, or other any other statute that confers jurisdiction on the Disputes Tribunal.
17. PI's monetary claim is about loss of income from the sale of the cattle.
18. At times during the hearing PI raised an argument that he should receive some compensation from NQJ for his time and travel involved in visiting NQ at NQJ's "request". I do not think that this is part of PI monetary claim, but for completeness I will address the argument.
19. My finding is that, in terms of the types of claims that the Disputes Tribunal can hear and determine, there is no arguable basis for an award of compensation.
20. NQJ's request, and PI's agreement, did not amount to an enforceable contract. There was no promise, or reasonable expectation, that PI would be compensated in any way for visiting NQ.
21. Therefore, there is no contractual basis for the claim.
22. There is also no quasi-contractual basis for the claim. Again, it is not the case that NQJ has been unjustly enriched by PI's work.
23. The Disputes Tribunal does not have jurisdiction to hear PI's claim, and the claim must be struck out.

Referee: Nicholas Blake
Date: 27 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>.