



(Disputes Tribunal Act 1988)
ORDER OF DISPUTES TRIBUNAL

District Court

[2023] NZDT 461

APPLICANT **QD Ltd**

RESPONDENT **QC**

The Tribunal orders:

QC is to pay QD Ltd \$1,458.20 by 24 July 2023.

Reasons

1. QC contracted QD Ltd (QR) to kill and process a steer.
2. The job was delayed due to QR suffering a stroke.
3. The job was eventually done in May 2022. The meat was packaged into ten banana boxes. An employee of QD Ltd delivered the boxes to QC.
4. QC was sharing the meat with three other persons, including BC and. QC was concerned that the amount of meat was less than he was expecting. He weighed the boxes, with the assistance of BC and the net weight was 231kg.
5. QD LTD invoiced QC \$1,458.20 (excluding interest) for the job. This includes a processing cost of \$1,008.00 plus GST, which is based on 480kg at \$2.10 per kg. This charge is calculated on the carcass weight of the animal.
6. The claim seeks payment of QD Ltd's invoice dated 29 May 2022, which includes an interest charge of \$29.16.

Findings

7. QR provided the services that he was contracted to provide. He killed the animal, processed it, froze it, and supplied 'extra sausages' that QC requested.
8. QC's defence to the claim is an argument that QR did not supply him with all of the meat that came from the animal.
9. QC submitted that:
 - a. From his research, and based on his own experience of previous home kills, the 'hot carcass weight' yields two-thirds meat and one-third waste.

- b. He received 231kg of meat from an alleged carcass weight of 480kg. This equates to less than 50%.
- c. The 231kg includes sausage ingredients (noting that he received 20kg of extra sausages), some bone (from oxtail and shin-on-bone cuts), and some offal (heart). Factoring in the sausage ingredients, bone, and heart, the actual processed meat that he received weighed even less than 231kg.
- d. Therefore, either the carcass weight on QD Ltd's invoice is incorrect, or QD Ltd have failed to provide him with all of the meat from his animal.

10. QR submitted that:

- a. This was a very large animal. Part of the reason for this is the delay from when QC booked the job until when it was done, due to his stroke.
- b. The yield of meat can vary significantly from animal to animal.
- c. QC was provided with all of the meat from this animal.

11. My findings are:

- a. It is unlikely that the carcass weight of 480kg is incorrect. This figure is consistent with the size and age of the animal. The task of weighing the carcass is not complex.
- b. QC's defence is based on an argument that a 480kg carcass should yield about 320kg in processed meat (two-thirds of the carcass weight). QC based this on:
 - i. Conversations that he has had with other butchers; and
 - ii. His own research on the internet.

I can give little weight to information that QC gives me about what other people have told him. That is hearsay evidence.

With regards to QC's internet research, he provided a single citation from an unknown website which states:

If you purchase a 1,200lb steer with a dressing percent of 63% you can expect a hot carcass weight of 756lb. If there is a 4% cooler shrinkage after the carcass is chilled, it will have a weight of about 726lb. Then another 30%-40% will be lost as fat trim and bone; this puts you at approximately 470lb of beef that will put into the freezer. *Note that these are only estimates and actual values vary based on the type of animal, fabrication choices, etc; as mentioned above. This is ONLY an example*

This paragraph supports QC's view about the "usual" proportion of waste (30-40%).

However, it also supports QR's view that the amount of waste can vary significantly from animal to animal.

- c. The evidence provided to me does not establish that a yield of 45-50% is so unusual or exceptional that it raises an inference that QD Ltd did not provide QC with all of the meat from the animal.
- d. It is not proven that QD Ltd failed to provide QC with all of the meat that it processed from his animal.

- e. QD Ltd provided the services that it was contracted to provide, and it charged QC for those services per the agreed terms. QD Ltd is entitled to payment.
- f. It is not proven that the terms of the agreement empowered QD Ltd to charge interest on outstanding accounts.
- g. QC is to pay QD Ltd \$1,458.20.

Referee: Nicholas Blake
Date: 3 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>.