



(Disputes Tribunal Act 1988)
ORDER OF DISPUTES TRIBUNAL

District Court

[2023] NZDT 143

APPLICANT SM

RESPONDENT BQ

The Tribunal orders:

BQ is to pay SM the amount of \$12,035.67 on or before 6 July 2023.

Reason

1. The dispute is over money SM lent to BQ and which SM says has not been repaid. SM says he paid BQ \$11,612.97 between March and April 2022 with interest. He is claiming this amount plus inflation for 2 years totalling \$16,774.94 because he believes BQ will not be able to pay this until then.
2. BQ did not attend the teleconference hearing.
3. SM says they were friends at university so when BQ contacted him saying his father was unwell SM lent him money which was repaid and then lent more money which was also paid back but when the amount got to about \$14,000 BQ stopped repaying and stopped communicating with SM but did pay some money through a mutual friend reducing the principal to \$11,612.97.
4. I am satisfied that \$11,612.97 of the principal is outstanding and due to be paid. I am not satisfied the interest provided for in the agreement should be paid. I say this because the loan agreement says that \$13,698.05 was lent and \$8,392.40 interest was to be repaid. The loan start date was 12 April 2022, and the repayment date was 15 April 2022. This is about 40% interest over a few days. I do not endorse such an exorbitant interest rate which if annualised would be 4,000%. Instead, I allow the Courts prescribed interest rate from 12 April 2022 to today which comes to \$422.70. Therefore, the total amount owed is \$12,035.67.
5. I do not allow inflation for the next 2 years because once an order is made by the court the debt is crystallised.
6. Accordingly, BQ is to pay SM the amount of \$12,035.67 as ordered.

Referee: P McKinstry

Date: 8 June 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>.