



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

[2023] NZDT 614

**APPLICANT**      T Ltd

**RESPONDENT**    MC

**The Tribunal orders:**

The claim is struck out.

**Reasons**

1. On 11 November 2022, MC entered into an agreement to rent studio accommodation from T Ltd. His studio was one of 12 studio units on the site, each having its own ensuite and having use of shared facilities. DI, representing T Ltd, described the operation of the premises as a commercial operation that does not provide residential accommodation, but does provide emergency accommodation, transitional housing, backpacker and motel accommodation.
2. MC arranged his own accommodation, which initially was for two weeks, however he extended his stay and vacated, as he was told to leave by DI, on 13 March 2023.
3. The matter came in front of the Tribunal on 24 May 2023. The Referee hearing the claim adjourned so that T Ltd could file a claim in the Tenancy Tribunal for a determination as to whether MC's claim was a residential tenancy under the Residential Tenancies Act 1986 (RTA) or not. The adjournment order explained that the Tenancy Tribunal has exclusive jurisdiction to decide whether an accommodation arrangement is or is not a residential tenancy or boarding house arrangement. T Ltd was given until 24 July 2023 to provide confirmation from the Tenancy Tribunal as to the nature of the arrangement.
4. T Ltd did not provide any information in the Disputes Tribunal before 24 July and the matter was set down for further hearing in front of me.<sup>1</sup> DI advised at the second hearing that he had contacted Tenancy Services after the previous hearing and was told this was not a matter involving the Tenancy Tribunal. It was explained to DI both at the hearing and the subsequent adjournment order that Tenancy Services provides advice to landlords and tenants based on the information they are given, but does not make determinations.
5. The matter was further adjourned and T Ltd was given until 10 November 2023 to provide an order from the Tenancy Tribunal setting out whether MC's arrangement was a residential tenancy under the RTA or not. My adjournment order dated 31 July 2023 stated that the claim will be struck out if no order was provided or T Ltd did not update the progress of its claim in the Tenancy Tribunal by 31 July 2023.

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<sup>1</sup> The first hearing was heard by a different adjudicator.

6. As an order from the Tenancy Tribunal has not been received and T Ltd has not given any details of its progress with a claim in that Tribunal, this claim is struck out.
7. This order does not prevent T Ltd filing a claim regarding this matter with the Tenancy Tribunal in the future. If the Tenancy Tribunal determines that it is a claim that it does not have jurisdiction to hear and determine then the file can be refiled in the Disputes Tribunal.

**Referee: W Lang**  
**Date: 23 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>.