

BETWEEN

EL
APPLICANT

AND

UO
RESPONDENT

Date of Order:

18 September 2015

Referee:

Referee Savage

ORDER OF THE DISPUTES TRIBUNAL

The Tribunal hereby orders that the claim is dismissed.

Facts

[1] EL purchased 2 Fleetwood Mac tickets via Trade Me for \$1260 from a Trade Me seller identified as UO. The tickets were supplied and the money was paid. Sometime later the concert was cancelled and Ticketmaster issued refunds to all its ticket purchasers.

[2] EL claims \$1260 from UO on the basis that he has benefitted from this sum and has received a refund from Ticketmaster.

Issues

[3] The issues to be determined are:

- a) whether EL entered into a contract with UO
- b) whether UO has received a refund from Ticketmaster and
- c) whether he owes EL any money.

Did EL enter into a contract with UO?

[4] A contract is a legally binding agreement between two or more parties by which they acquire rights and owe duties and have obligations in respect of the subject matter of that agreement.

[5] EL said he purchased the tickets from UO because that was the name of the account holder who sold the tickets.

[6] For the purposes of a Trade Me contract, where the seller is not identified, the seller is the person who owns the account used to sell the item. However, UO has produced evidence that proves on balance that he was the subject of identity theft and he did not sell tickets to EL.

[7] I find that UO was not the seller and therefore he did not enter into a contract with EL.

Did UO receive a refund from Ticketmaster?

[8] I find on balance that UO did not receive a refund from Ticketmaster. EL did not prove that UO had purchased the tickets from Ticketmaster and the Trade Me investigation report asserts that someone other than UO sold these tickets on Trade Me using UOs' account name.

That same person changed the bank account number and email address on UOs' Trade Me account a year before the deal with EL. I am therefore able to conclude that UO would not have and did not receive a refund from Ticketmaster.

Does UO owe any sum to EL?

[9] For the reasons above I find that UO does not owe EL any sum of money. However, I wish to note that if UO was the seller and was liable in contract he would only be liable for the amount of the refund he received from Ticketmaster.