



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

[2023] NZDT 704

**APPLICANT**      **MA**  
**RESPONDENT**    **X Ltd**

**The Tribunal orders:**

MA's claim against X Ltd is dismissed.

**Reasons:**

1. MA booked to stay at X Ltd's hostel for four nights in July 2023. Later in the evening on the second night, X Ltd's staff asked MA to leave the hostel as they claimed she had breached the hostel rules. She left the hostel the next morning. MA asked for a refund of the two nights she did not stay but X Ltd refused. MA claims \$485.00 from X Ltd for a refund of the two nights of accommodation she did not use, the extra costs she incurred for accommodation for the next two nights and the Tribunal's filing fee.
2. The issues to be determined by the Tribunal were:
  - a. Did the MA breach the X Ltd's rules?
  - b. If so, was the X Ltd entitled to ask her to leave?
  - c. If so, is the MA entitled to a remedy?
  - d. If MA did not breach the rules, is MA entitled to a remedy for being asked to leave?

**Did MA breach X Ltd's rules?**

3. The relevant law is the law of contract. MA agreed to X Ltd's rules when agreeing to stay at X Ltd's hostel. In return X Ltd provided MA with accommodation.
4. On the evidence provided to the Tribunal, I find that MA did breach X Ltd's rules. I say this because:
  - a. The evidence shows that there was signage in the hostel that no person staying in the hostel was permitted to have visitors in their room and all visitors were required to register at reception. The signage was at the bottom of the stairs which led up the rooms where the guest accommodation was located. X Ltd's representative said that the reason for this was that X Ltd needs to know who is in the hostel at any time for health and safety reasons, particularly in case of fire.
  - b. I find that it is more likely than not that MA knew of the rule regarding no visitors in the room, even if she had not seen the signage, as, on the evidence provided I accept that it was more likely than not that she was told this after her first night staying in the hostel. MA said she was not told this, but she agreed that she was told she could not have visitors in her room this when a visitor came to see her at 7pm on the second night of

her stay (being Friday 14 July 2023). MA told the Tribunal that she had to meet this person in the dining room which was a common area of the hostel. Therefore, even if MA had previously missed the signage or not been told that she could not have visitors to her room (which is contrary to the evidence provided by X Ltd), she was aware of it from 7pm on the Friday night, 14 July 2023.

- c. MA said she had a guest to her room at 9pm on the second night of her stay (Friday 14 July 2023). I have already found that she was aware of the rule regarding visitors at this point so she should also have been aware that she was breaching the rule. However, MA told the Tribunal that as she had booked a room for two people, she thought it should be allowed. However, the issue was whether or not this was in breach of a rule that she aware of, and it was.

5. The breach of the rules by the MA constitutes a breach of contract.

**If so, was the X Ltd entitled to ask her to leave?**

6. MA was asked to leave the hostel late in the evening on the second night of her stay with X Ltd. Eventually X Ltd agreed to let her stay for the rest of that night and she was asked to check out and leave the next morning, 15 July 2022.

7. As I have found that MA had broken X Ltd's rules (and therefore the contractual terms), X Ltd was entitled to ask MA to leave.

**If so, is the MA entitled to a remedy?**

8. As MA broke the rules (and therefore the contractual terms) MA is not entitled to a remedy. However, X Ltd is entitled to a remedy due to the breach of the rules by MA. MA's breach entitled to X Ltd to cancel the contract and claim damages.

9. The remedy for breach of contract is for the breaching party to put the other party in the position they would have been in had the contract not been breached. As MA had booked four nights' accommodation, X Ltd is entitled to be paid for these four nights. Due to the short notice of breach and therefore cancellation by X Ltd, it is more likely than not that it would have been difficult for X Ltd to get other bookings and mitigate its losses.

**If MA did not breach the rules, is MA entitled to a remedy for being asked to leave?**

10. As I have found that MA breached X Ltd's rules, there is no need for me to consider this issue. Accordingly, MA's claim against X Ltd is dismissed.

**Referee: K. Armstrong**  
**Date: 20 December 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>.