

## Decision – 1 December 2020 (De-identified for publication)

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This document sets out my decision and direction on a complaint from the Representative on behalf of the Consumer about the Provider.

I have decided the Provider must pay the Consumer \$4,831.19 in the following instalments:

- \$3,220.79 within 10 business days of the Consumer accepting this decision, and
- \$100.65 on the 28<sup>th</sup> of each month from 28 December 2020 to March 2022.

My decision is based on the reasons set out in the following pages.

1 December 2020

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## 1 Background

On 28 February 2018, the Consumer entered into a 48-month contract for telecommunication services with the Provider.

## 2 Preliminary view and the parties' responses

On 10 November 2020, a TIO Adjudicator sent her Preliminary View on the complaint to the parties. The Adjudicator's Preliminary View was that the Provider must pay the Consumer \$4,831.19 in instalments:

- \$3,220.79 within 10 business days of the Consumer accepting this decision, and
- \$100.65 on the 28<sup>th</sup> of each month from 28 November 2020 to February 2022.

The Consumer accepted the Adjudicator's Preliminary View but the Provider did not respond.

## 3 The complaint and the Provider's response

In early 2018, the Consumer had a contract for telecommunication services with Provider 1. The Provider offered to take over these services and pay any termination charges the Consumer incurred with Provider 1.

The Consumer accepted the offer from the Provider and incurred a termination charge with Provider 1 of \$4,831.19.

The Provider acknowledges there was an agreement to pay out the Consumer's contract with Provider 1. It says it agreed to do this in monthly instalments over the term of the contract.

On 26 August 2020, the Provider agreed that it would process a lump sum payment for the months that had elapsed since 28 February 2018. It confirmed that "[the Provider] owe 30 months upfront and 18 months on a month to month basis."

## 4 Reason

The reason for my decision is I am satisfied the Provider agreed to payout the Consumer's previous contract.

On 30 May 2020, the Provider acknowledged that there was an agreement with the Consumer to payout its previous provider.

On 17 June, the Provider confirmed the details of the agreement to pay out the previous provider. In an email to TIO Investigations, the Managing Director of the Provider said:

"As per the contract with customer, the \$4,831.19 was to be paid monthly over 48 months of the contract.

We are happy to bring the account up to date and the continue with monthly payments of approx \$101 per month to end of the contract.”<sup>1</sup>

On 26 August 2020, the Provider confirmed it owed 30 months upfront and 18 months on a month to month basis.

The Provider has not shown it made the payments to the Consumer.

Judi Jones

Telecommunications Industry Ombudsman

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<sup>1</sup> Email dated 17 June 2020