

# Example by StudyDriver

Source: <https://studydriver.com/applying-the-law-of-agency-to-a-given-fact-situation/>

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## The Law of Agency to a Given Fact Situation Example

Apply the law of agency to a given fact situation LEVEL:5 Element 1 Define agency Performance criteria

1. The definition establishes the relationship between principal, agent, and third party in terms of the type of agency.
  - Universal agency: are agencies that has got unrestricted authority and are appointed by the general power of attorney, and are allowed to perform all acts of responsibilities.
  - Special agency: are agencies that have special agents for special functions and/or purpose.

**Element 2** Apply the law relating to creation and termination of agency. **Performance criteria 2.1** The criteria established in case law, which determine whether an agency is created, are applied to a given fact situation.

Range one of “ express agreement, estoppel, ratification. Tom and Peter are both classic car lovers. Tom is a builder and Peter is a mechanic. Tom decides to buy a classical car as an investment so he asks Peter to visit a classical car auction that was to be held over the weekend. Peter sees a nice 1960’s Volkswagen and registers his name as one of the bidders in order to participate in the auction. The car sells for \$30,000, and Peter leaves the auction. The next day Peter goes to the auction and the car is still there. Peter offers the owner of the

Volkswagen that he will take the car for \$35,000 and the owner agrees. Peter knows that Tom will take the car. He calls up Tom and Tom ratifies the deal between the owner of the car and Peter. (unit 11635, 2013) **Answer** According to the above situation Ratification is applied. The law relating to the creation of agency because in this situation initially Tom rectifies. This means that Tom has accepted the deal between Peter and the owner of the car when Peter buys the car for \$35000. **2.2 The criteria established in case law, which determine whether an agency is terminated, are applied to a given fact situation.** Keith, is a landlord who negotiated with his tenant through his agent, real estate for the renewal of the lease. Through his agent, real estate, Keith made a written offer to renew the lease on terms. The offer stated that the tenant had one month within which to accept the terms. Keith passes away few weeks after making the offer. The tenant and the agent real estate were not aware of Keith death. (unit 11635, 2013) **Answer** According to the contract, it will be terminated directly because the landlord Keith passes away after few weeks of the renewal of the lease. It is an operation of law because Keith the landlord passes away after a few weeks after making the offer. The tenant signed a written acceptance of the terms. **Element 3** Apply the law relating to authority of agents. **Performance criteria 3.1 The law, which determines whether the principal or agent is bound in contract through the agent's actions, is applied to a given fact situation.** Range one of "express, apparent or customary authority. Jerry, a professional baseball player, asks Taz to be his sports agent and Taz accepts. Jerry tells Taz that he can review the contracts offered to Jerry from the various MLB baseball teams. Taz has the express authority to review contracts. Taz then hires his own secretary to direct phone calls and deal with some of the paperwork involved with the contracts. Jerry did not give Taz the express authority to hire the secretary and help Taz. (unit 11635, 2013) **Answer** According to the law of agency, delegation is not allowed. Taz as being appointed to act as an agent for Jerry had no authority to assign his secretary to deal with phone calls and paperwork of Jerry. In this given situation Taz was authorised to do all the paper work for Jerry and not to delegate his responsibilities and duties to his secretary. This is related to the personnel act the agent (Taz). **Element 4** Apply the law as to the rights of third parties. **Performance criteria 4.1 The law relating to the rights of the third party, where the principal is unnamed is applied to a given fact situation.** Tanisha decided to acquire a swimming pool at the back of her house in Papakura. She called Paloma and paid NZ\$ 5,000 00 as partial payment and agreed to be refunded if the project could not be completed in one month period. After two months, the construction of the pool was only on its first stage. Tanisha sued Paloma to get his partial payments.

Paloma claimed that she is only acting as agent of Abc Construction and that she is not personally liable to it. (unit 11635, 2013) **Answer** In this given case there had been a mutual agreement between Paloma and Tanisha. Both Tanisha and Paloma agreed that if the project is not completed within the agreed time, the money will be refunded. **4.2 The law relating to the rights of the third party, where the agent is undisclosed, is applied to a given fact situation.** Kelly Co authorized Robert, a jeweler, to buy 5 cuts of diamond on a joint account for himself and for them at a certain price. Robert, on his own behalf and without authority of anybody else, promised Durant to buy the diamond at a higher price which made Durant to wait. The intention that he was acting for Kelly Co. as well as himself was not disclosed by Robert to Durant. Robert cancelled the transaction to Durant and Kelly Co offer Durant to buy the diamond at a lower price Durant , subsequently discovered that Robert is working with Kelly Co. Durant sue Robert for not disclosing his relationship with Kelly Co. **Answer** According to law of agency, Durant has the full right to sue Robert and Kelly because of the disclosure of information. **4.3 The rules relating to the rights of the third party, where the agent is unauthorised or has exceeded authority, are applied to a given fact situation.** Brent, the principal, is movie actor in New Zealand TV series . He accepted movie projects through his talent scout or agent, Denise. All the talent fees of Brent were collected by Denise and deposited to Brent account as agreed by the two parties. One day when Denise got the talent fee of Brent amounting to NZ\$ 100,000 from one of his major projects, Denise decided to give half of the amount to the charity which was supported by Brent long before. Her decision was done without the knowledge of Brent. (unit 11635, 2013) **Answer** From the given case, Denise action may be considered as unauthorised. This is because Brent did not give authority to Denise to donate money to the charity that had been supported by Brent long before. **Element 5** Apply the law relating to the duties of a principal and an agent to each other, and the remedies for breach of duty. **Performance criteria 5.1 The law relating to the duties of an agent is applied to a given fact situation.**

1. Ritchie, the secretary of Manurewa Rugby Team agrees, without reward, to purchase sets of playing gear for the team from a local manufacturer. He receives discounts for the purchases, but conceals this fact from the team and charges it in full price, putting in his pockets the difference. (unit 11635, 2013)

**Answer** According to the above case, it is a breach of duty of care and law because Ritchie purchases the gear in

given discount, but discloses this fact from the team members and charges the team in full price and puts in his pocket the difference.

2. Kamal, the principal, owns a superette near the bus station in Albany. He wanted to go back to his hometown and stayed there for good. He called Aroha, a real estate agent, and made an agreement to sell his properties only for NZ\$200,000 to NZ\$250,00 because he needs to leave the New Zealand as soon as possible

**Answer** Under the law of agency, the agent (Aroha) was not supposed to disclose the confidential information to the buyer, as it might enable the buyer to get the superette in a much lower price. **5.2 The law relating to the duties of a principal is applied to a given fact situation.** Range one of " to pay commission, to indemnify. Dan, a famous basketball player left his team due to professional jealousy among team members. He was introduced by his former team mate to Jimmy McGuire, a sports talent scout. The agreement between Dan and Jerry was made, that Jerry will find a team for Dan. After a month, Dan played in Heat Lakers and enjoyed his salary. Jerry asked for his commission but Dan denied and claimed that he knew personally the coach of the team which made him part of it. **Answer** According to the above situation the agreement was made between Dan and Jerry was that Jerry would find a team for Dan. After a month, Dan played in Heat Lakers and enjoyed his salary. Under the law of agency Dan had to pay commission to Jerry as per their agreement, but Dan denied and claimed that he knew personally the coach of the team which made him part of it. **5.3 The remedies for breach of principal's duties are applied to a given fact situation.** Range one of " pay commission, indemnify, termination of contract. NDB 502 class of Cambridge Academy secured the help of Auckland City Travel to scout for different small businesses operating in Wellington as part of their benchmarking activities. The travel agency started the work and contacted personally business owners in Wellington and arranged the schedule of the visit. They also had on-site visits to all the places where Cambridge Academy students chose to ensure success of the activity. They completed the work in three weeks time. When they called Cambridge Academy for the schedule of the trip, to their dismay, they were informed that they will not push through the activity due to financial problem. The agency insisted Cambridge Academy to pay the expenses and damages they incurred for their work but the Academy claimed

that they will not pay because the activity was not pushed through. **Answer There had been a breach of contract between Auckland City Travel and Cambridge Academy**, - Auckland City Travel had the right to sue Cambridge Academy because Cambridge Academy reserved the Auckland City Travel for organising the trip for the students. The agency after arranging everything, Cambridge Academy cancelled the trip due to financial problem. The agency insisted to the Academy to pay for the expenses and damages for the work done, but the Academy claimed that they will not pay because the activity was not pushed through. Cambridge Academy has to cover the expenses for the agency for the financial loss that they went to arrange for the trip. **5.4 The remedies for breach of agent's duties are applied to a given fact situation.** Paula got a job through employment agency. Part of their agreement is to have Paula undergo drug test as part of company policy. For a year it was religiously followed by Paula, but the for the next year Paula did not submit his drug test result and discovered that he is using illegal drugs. The Employment agency dismisses Paula's contract with them. (unit 11635, 2013) According to the above situation, the employment agency can legally cancel Paula's agreement between them. As part of the agreement Paula had to undergo drug test every year. For the first year Paula completes his drug test but the following year he fails to undergo the drug test. It was later discovered that he was using illegal drugs. Reference ianz. (2013). apply the law of agency to given fact situation. auckland: ianz. unit 11635. (2013). apply the law of agency to given fact situation. auckland: ianz. 1