

**BETWEEN**

**AAH**

**APPLICANT**

**AND**

**ZZT**

**RESPONDENT**

Date of Order:

15 October 2012

Referee:

Referee Rossiter

---

**ORDER OF THE DISPUTES TRIBUNAL**

---

**The Tribunal hereby orders that the application be struck out.**

## **Facts**

[1] The Applicant is the manufacturer of a product that it wishes and intends to be used as an additive to grapes. The purpose of the product is as a “biocide, fungicide and general sanitiser.” The Respondent, ZYT, is an employee of a company (XY Ltd), contracted by [a wine growers association] to, amongst other things, prepare a “spray schedule” for circulation to the members of [the wine growers association]. The spray schedule is intended to provide advice to members with respect to the agrichemicals that may be used on grapes. The apparent opinion of the Respondent, ZYT, is that if the Applicant’s product is included in the “spray schedule” compiled by XY Ltd for its principal, [the wine growers association], that should be accompanied by a statement that: “use of this product may affect flavour and aroma of the wine.” The Applicant objects to that view or position of the Respondent, on behalf of his employer, and claims that it has suffered loss as a result of the publication of that view, and the application to the Tribunal has followed.

## **Law**

[2] The jurisdiction of this Tribunal is as provided for in s 10 of the Disputes Tribunals Act 1988 and Schedule 1 of the Act (which states the “enactments” (statutes) under which Disputes Tribunals may exercise powers and enactments which confer jurisdiction on Disputes Tribunals). In essence, the Applicant contends that the actions of the Respondent and his employer, have harmed his economic interests by preventing the sale of his product to a vineyard. It is suggested that the Tribunal may have jurisdiction to deal with the application pursuant to s 10(1)(c)(ii) of the empowering Act. This provides for the Tribunal to have jurisdiction in respect of “a claim in tort in respect of any damage or injury to any property”.

## **Findings**

[3] I am unable to uphold the Applicant’s argument as set out in para [2] above. The expression “property” as it appears in s 10(1)(c)(ii) of the Act refers, in context, to tangible

property such as a chattel. It does not encompass alleged harm to pure economic interests, such as the loss of a sale. Assuming there is a tort, on the basis of which the Applicant is able to pursue its claim (I express no view about that), the nature of the loss alleged by the Applicant is not something in relation to which this Tribunal could possibly have jurisdiction. The nature of the Applicant's problem and dispute with the Respondent, ZZT, his employer, XY Ltd and his employer's principal, the [wine growers association], regarding the approval of the Applicant's product is not, therefore, something that this Tribunal has the power to adjudicate upon. In these circumstances, the Tribunal having found that it does not have jurisdiction to deal with this claim, the application must be struck out.