

BETWEEN

AEI

APPLICANT

AND

ZVN City Council

RESPONDENT

Date of Order: 10 October 2012

Referee: Referee Benson

ORDER OF THE DISPUTES TRIBUNAL

The Tribunal hereby orders that the claim is dismissed.

Facts

[1] This is a decision on jurisdiction. AEI argued that ZVN City Council was negligent as to the terms of resource consent for work at a property adjacent to AEI's property. AEI sought to recover his costs: \$1,610.58 for a land surveyor, \$74.00 for a copy of the Council file, and \$300.00 for witness expenses.

[2] ZVN City Council argued that the Disputes Tribunal had no jurisdiction to hear the claim because it was a tort involving financial loss.

Decision

[3] This submission as to jurisdiction is correct. The Disputes Tribunal cannot hear any claim merely because there is a dispute, but has a limited jurisdiction to hear: claims founded on contract; or claims in tort in respect of the destruction or loss of any property, any damage or injury to any property and the recovery of any property (Disputes Tribunals Act 1988, s 10(1)) (a tort is a legal wrong not dependent on the existence of a contract, e.g. negligence).

[4] The claim is not within the Tribunal's jurisdiction. AEI and ZVN had no contract. AEI claims that ZVN's negligence caused financial loss, which is not (as required by s 10(1) of the Act) destruction, loss, damage or injury to or recovery of, property. AEI referred to minor damage to a brick wall on his boundary as a result the property being worked on, but there was no claim for this damage.

[5] The claim is therefore dismissed.