



(Disputes Tribunal Act 1988)  
**RESULT OF APPLICATION FOR REHEARING**

[2024] NZDT 18

**APPLICANT** BU  
person or organisation  
making  
the original claim

**RESPONDENT** B Ltd  
person or organisation  
originally  
claimed against

**Result of application for rehearing:** Rehearing Refused

The Order of 14 September 2023 stands.

**Reasons for decision:**

1. I held a teleconference hearing today to establish if a rehearing of this matter (originally heard by Referee Jadurum) should be ordered. FB appeared for B Ltd, and BU responded. As explained at the outset of the hearing this was a rehearing hearing, the issue before me is simply whether or not would be unjust for Referee Jaduram's decision to stand.
2. FB's reasons for requesting a rehearing were that:
  - a. the flooring was damaged by improper care and misuse, including incorrect cleaning products in the placement of sharp couch legs on the flooring; and
  - b. the Referee's order to pay \$10,700 for the installation of new flooring was more than the \$2,500, it initially cost to install that flooring.
3. BU responded that the issue of causation was never raised at the first two hearings before Referee Jaduram, despite the installer who had alleged improper care and misuse appearing as a witness. He also responded that no evidence had been provided showing that the flooring could be replaced at a lower cost, as alleged by FB, either in the rehearing application or during the initial hearing process.
4. I note that Referee Jadurum took account of three quotes for the replacement of the flooring and gave reasons for preferring the quote on which she based her order. No evidence has

been provided to contradict these quotes. Furthermore, there is no evidence that causation was raised during the hearing process. A rehearing is not an opportunity to perfect a case when there was evidence available to a party which could have been brought to the referee's attention during the initial hearing, but was not.

5. Having read the file and carefully considered the parties arguments, I find no reason why a rehearing should be ordered in this instance. Therefore, B Ltd's application for a rehearing is refused, and referee Jadurum's order stands.

**Referee: C D Boys**  
**Date: 30 January 2024**



## 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>.