



(Disputes Tribunal Act 1988)
ORDER OF DISPUTES TRIBUNAL

District Court

[2023] NZDT 20

APPLICANT **BW**

RESPONDENT **EO**

The Tribunal orders:

EO is to pay BW \$1,139.30 on or before 23 March 2023.

Reasons

1. On 11 June 2022, EO attended a party at BW's house. After the group at the party had been drinking for a few hours, a fight occurred and EO kicked in a pane of glass on the bottom of BW's front door. Some small chips of glass hit the TV screen causing damage.
2. BW claims \$2,240.00 to pay for the damage.
3. The issue to be decided is whether the costs claimed are reasonable to put BW back into the position he was in prior to the damager occurring.

Are the costs claimed reasonable to put BW back into the position he was in prior to the damager occurring?

4. The law of negligence applies in this case. EO owed a duty of care to BW, not to damage his home or possessions while attending the party. It is clear from the photos, messages from EO and Police report that EO breached his duty of care and did kick in the glass pane on the front door, and this resulted in the glass hitting the TV and chipping the screen. It was foreseeable that kicking the glass pane might result in damage to the TV, because the TV was located very close to the front door.
5. BW is entitled to be restored to the position was in before the damage occurred. I am satisfied that the cost to repair the glass pane was \$239.30, as proved by the invoice from XH.
6. BW claims \$2,000.00 to replace the LG 65-inch TV. The invoice from XF proves that it is not possible to repair the screen. BW has presented some Facebook evidence of similar second-hand TV's being advertised for sale showing that the TV is worth about \$1,000.00. BW says that he bought the TV about three and half years ago for \$3,500.00, although he doesn't have any evidence to prove this.
7. It is not possible to know the exact value of BW's second-hand TV, however based on the evidence presented I find that reasonable compensation for the replacement of the LG 65-inch TV is \$900.00. I have erred on the side of caution, given that the exact value is not known. I

note that the photos show that it was in good condition before the damage occurred.

8. In conclusion, I find that EO must pay BW \$1,139.30 as compensation for the damage he caused.

Referee: Sara Grayson

Date: 2 March 2023



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>.