

BETWEEN

CZ
APPLICANT

AND

CZC INSURANCE LIMITED
APPLICANT'S INSURER

AND

XA
RESPONDENT

Date of Order:

25 February 2016

Referee:

Referee Ashcroft

ORDER OF THE DISPUTES TRIBUNAL

The Tribunal hereby orders that XA is to pay to CZC Insurance Limited the sum of \$1,708.72 by 18 March 2016.

Facts

[1] On 26 September 2014 XA parked his vehicle in a parallel park on A Street, B. CZ intended to park his vehicle on A Street in the vacant park in front of XA's vehicle. As CZ pulled his vehicle level with XA's, XA opened his car door and a collision occurred damaging both vehicles.

[2] CZ's vehicle is insured with CZC Insurance Limited who has repaired the damage to the passenger side doors it at a cost of \$1,708.72.

[3] In the Tribunal CZC claim that sum from XA. XA made no claim for the damage to his vehicle.

Issues

[4] The issues are:

- a. Did XA cause a hazard by opening his car door?
- b. If so, are the costs claimed reasonable?

Did XA cause a hazard by opening his car door?

[5] The relevant law is the law of negligence. Negligence concerns the duties that one person owes another to take care. The standard of care required is that of a reasonable prudent driver. Drivers must take care not to drive in a manner that causes damage to another vehicle.

[6] The Land Transport (Road User) Rule 2004 explains the rules that all drivers in New Zealand must abide by. Rule 7.2 the use of doors applies here; it provides (1) A person must not cause a hazard to any person by opening or closing a door of a motor vehicle, or by leaving the door of a motor vehicle open.

[7] The applicants, CZ and CZC, have the onus of establishing their claim on the balance of probabilities.

[8] I have had regard to XA's evidence and arguments. He parked in A Street and turned the engine off. XA checked his mirrors and then opened his door. He did not see CZ's vehicle which may have been in his blind spot. Given the length of the damage down CZ's vehicle he questions whether speed may have contributed to the incident. In his view the collision came down to bad timing and is a simple accident where no one is at fault or to blame.

[9] The obligation under the rules falls on XA not to cause a hazard to any person by opening a door of a motor vehicle.

[10] The damage to CZ's vehicle starts at the front passenger door and travels back onto the rear passenger door which is evidence that CZ was level with Mr XA's car at the time XA opened his car door. From the photos I cannot conclude that speed was a factor and as XA did not see CZ he cannot persuasively argue that it was.

[11] I find that XA caused the collision by opening his car door. In doing so he created a hazard and breached his duty of care; he was negligent.

Are the costs claimed reasonable?

[12] If one person breaches a duty that they owe to another and causes damage to the other's property as a result, then the person who has breached the duty is liable to pay the cost of putting the other person back in the position they would have been in had the damage not occurred.

[13] The repair quoted and actual repair carried out are consistent with the damage described by the parties and the photographs of that damage.

[14] I find the costs claimed by CZC established and reasonable.

[15] XA is to pay to CZC \$1,708.72.