



(Disputes Tribunal Act 1988)
ORDER OF DISPUTES TRIBUNAL

[2023] NZDT 691

APPLICANT ES

RESPONDENT CE

The Tribunal orders:

CE is to pay directly to ES the sum of \$4,000 on or before Wednesday, 31 January 2024.

Summary of Reasons:

[1] The hearing was convened by teleconference. Only the applicant appeared at the hearing. When I called the respondent on the number advised, there was no reply. I am satisfied the respondent has been properly notified of the hearing, and therefore I will proceed to consider the claim in their absence.

[2] The applicant seeks compensation for a vehicle, that respondent converted in June 2023 after being loaned the vehicle for a few days. Despite repeated requests from the applicant for the return the vehicle, the respondent has failed to return it, has changed the registration into his own name in July 2023, and likely sold it.

[3] As stated above the respondent has not appeared today, nor provided the Tribunal with any evidence as to why he should not be found liable to pay the amount claimed. The written correspondence on the Tribunal file shows the respondent admits he borrowed the vehicle and that he has failed to return it after a few days as promised.

[4] I am satisfied on the evidence of the applicant that the respondent has converted the applicant's vehicle. The evidence also shows the respondent has incurred traffic fines and converted items left in the vehicle including a mobility card, laptop, mobile phone and wallet containing credit cards and id.

[5] In his application the applicant claimed the purchase price of the vehicle paid a few months before the vehicle was converted, \$4,000. It is likely the vehicle is worth more than \$4,000. The applicant does not want an adjournment to increase the quantum of his claim. Therefore, the Tribunal cannot order the respondent to pay more than \$4,000.

[6] However, this order does not include the loss suffered by the applicant for incurred traffic fines and the converted items left in his vehicle. The applicant may bring a further claim for compensation for this loss in the Tribunal.



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 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>.