



(Disputes Tribunal Act 1988)
ORDER OF DISPUTES TRIBUNAL

District Court

[2023] NZDT 223

APPLICANT ET

RESPONDENT T Ltd

The Tribunal orders:

ET's claim against T Ltd is dismissed.

Reasons:

1. The applicant claimed that she lost a tailgate from the back of the trailer she was using to deliver metal to the respondent as a result of negligence by the respondent's staff member. The applicant claims \$2,495.00 from the respondent which is made up of \$405.00 for a new tailgate, \$1,000.00 for stress and worry, \$1,000.00 for the applicant's time and \$90.00 for the Tribunal's filing fee.
2. At the hearing the respondent provided evidence to show that it had paid the applicant \$405.00 on 15 February 2023 to compensate her for the cost of the tailgate that she replaced on her friend's trailer. The applicant confirmed receipt of this amount.
3. Therefore, the only issue to be determined was whether the applicant can claim costs for her time, stress and worry and the Tribunal's filing fee from the respondent.

Can the applicant claim costs for her time, stress and worry and the Tribunal's filing fee from the respondent?

4. The applicant claimed \$1,000.00 for their time and effort in bringing their claim to the Tribunal, \$1,000.00 for stress and worry and \$90.00 for the Tribunal's filing fee.
5. Although sorting out disputes can be extremely stressful for parties, the Tribunal does not generally award costs claimed by parties where a dispute has arisen. This is because claims of this nature are a challenge to address as these losses are of a subjective nature and the extent of intangible harm is difficult to prove and to price. If measured, any award is open to criticism on the basis that the outcome is unpredictable.
6. With respect to the other costs claimed by the applicant, section 43 of the Disputes Tribunal Act 1988 only allows for a party to claim a refund of these costs in certain limited circumstances, none of which apply in these circumstances.

Referee: K. Armstrong
Date: 14 April 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>.