



(Disputes Tribunal Act 1988)  
**ORDER OF DISPUTES TRIBUNAL**

**District Court**

**[2023] NZDT 121**

**APPLICANT**      **FD Ltd**

**RESPONDENT**    **UD**

**The Tribunal orders:**

UD is to pay the sum of \$3,720.00 to FD Ltd on or before Thursday 23 March 2023.

**Reasons:**

1. On 12 September 2022, UD, who was a prisoner on probation, signed an Agreement for Services to work as an independent contractor for FD Ltd for a period of two years. He needed a work car, and on 6 November 2022, he signed a Used Car Sales Agreement to purchase a [Car] from FD Ltd for \$4,500.00. The price was to be paid at \$130.00 per week, to be deducted every Thursday by FD Ltd from UD's weekly pay.
2. UD stopped paying his loan weekly after 15 December 2022. FD Ltd has discovered that he moved to [City] and sold the car to a third party, who did not have a licence, resulting in the car being impounded by the police. FD Ltd now seeks to recover the car from UD.
3. UD did not attend the hearing or present any defence to the claim. The absence of a party does not prevent the hearing going ahead.
4. The issue to be determined is what remedy is available to FD Ltd. The sale of goods is governed by the common law of contract and the Contract and Commercial Law Act 2017 (CCLA). Since the contract did not reserve title to FD Ltd, and there was no security taken over the car, the ownership of the car had passed to UD and there was nothing to stop him selling the car. UD no longer has possession of the car, and cannot be ordered to return it to FD Ltd under the CCLA.
5. I find that it was an implied condition of the loan contract that if UD stopped working for FD Ltd in breach of his contract for services, the balance of the car loan would become payable in full, since instalments could no longer be deducted from his pay. I therefore find that UD must pay \$3,720.00 to FD Ltd.

**Referee: E Paton-Simpson**

**Date: 3 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 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>.