



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

District Court

[2023] NZDT 496

**APPLICANT** FN

**RESPONDENT** C Ltd

**APPLICANT'S** Q Ltd  
**INSURER**

**The Tribunal orders:**

The claim is dismissed.

**Reasons**

*Did C Ltd misrepresent product it was selling?*

1. FN has claimed that due to C Ltd's misleading advertising he put [diesel brand] into his new [car] resulting in a \$13,347.33 repair bill.
2. FN's claim is that C Ltd's signage in [Town] is misleading. He submitted that a signage change led him to believe that the site was dispensing [petrol brand]. He referred to the old signage that stated 'Truckstop' but new signage that did not refer to Truckstop. It did refer to 'C Ltd fuel card'. FN mistook the coloured [diesel brand] pump for [petrol brand].
3. C Ltd stated that the area is consistent with it being a truckstop. There is a bulk tank, no C Ltd retail shop or C Ltd branded canopy. There is no reference to [petrol brand] being sold at the site. There is a warning on the pump handle not to put [diesel brand] into a fuel tank. There is a stop lever on the pump to help warn people before releasing the [diesel brand] pump handle. The purchase requires a person to select Diesel or [diesel brand] only. There is no [petrol brand] option.
4. I am satisfied that the mistake FN made was not due to any misrepresentation about what C Ltd was selling at the site. There was an unfortunate association that FN made that the [colour] for [diesel brand] product was the same as [petrol brand]. The claim must be dismissed.

**Referee: B M Smallbone**

**Date: Thursday, 5 October 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>.