



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

**District Court**

**[2023] NZDT 490**

**APPLICANT      HL Ltd**

**RESPONDENT    AH**

**The Tribunal orders:**

The claim is dismissed.

**Reasons:**

1. HL Ltd operates an inner city superette. The director, TA, said that on 15 July 2023 AH came into the store, and as he was serving her, her son's scooter collided into one of the shop windows and damaged it. He claimed to be compensated \$744.00 that it cost him to replace the glass.
2. AH said she initially thought she may be liable and so approached WINZ to be loaned the money, but WINZ refused. She obtained legal advice and denied she was liable for the cost to replace the glass.
3. The issues to be resolved are:
  - (a) Is AH liable for the damage to the window caused by her son?
  - (b) If so, what reasonably foreseeable loss can HL Ltd prove it has incurred that it is entitled to be compensated for?

**Is AH liable for the damage to the window caused by her son?**

4. The law of negligence imposes a duty of care in situations where we can reasonably foresee that harm may be caused to another person as a result of our acts or omissions.
5. For a parent to be liable for an act of negligence on behalf of their child, it is for an applicant to prove that the parent were themselves negligent in some way.
6. TA considered that AH is the parent and so if her child damages something, then she should be liable.
7. AH said her son was 8 years old and was waiting outside of the store with an electric scooter that is available for hire around the [City] area. He was waiting with her partner, and was standing beside the scooter, when he accidentally pushed the scooter's accelerator and it drove forward into a glass window of the store. He was not hurt, but very upset. She considered it was an accident and,

although she regretted the incident and did not want to see TA out of pocket, she was not able to prevent what occurred.

8. I find that there was no act of negligence on behalf of AH. Her son was supervised outside by adult and there was nothing careless about AH leaving him outside standing beside his scooter while she went into the shop. I agree with AH that her conduct as a parent was reasonable and there was nothing else she ought to have done to prevent the possibility of this event occurring.
9. TA said his insurance has a \$2,000 excess and so HL Ltd paid \$744.00 to install the replacement window. Although it is evident that HL Ltd has suffered a loss, not all losses are recoverable, as is what has occurred on the facts of this case. As HL Ltd has not shown that the damage was caused by AH's act of negligence, its claim is dismissed.

**Referee: Ms Cowie DTR**  
**Date: 17 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>.