



(Disputes Tribunal Act 1988)
ORDER OF DISPUTES TRIBUNAL

[2023] NZDT 620

APPLICANT IT

RESPONDENT LL

The Tribunal orders:

The claim by IT against LL is dismissed.

Reasons

1. IT and LL are neighbours who share a driveway area.
2. IT brought a claim against LL for \$12,000.00 for loss of the enjoyment of looking at vegetation that he had nurtured. The sum of \$12,00.00 represented \$1000.00 per year for the next twelve years.
3. There were other matters in dispute the parking of cars and who is responsible for a garden area.
4. It was pointed out to IT during the initial hearing that he would not succeed in his claim and the parties were encouraged to settle their differences.
5. The parties did agree to settle their differences and a settlement order was made.
6. A second hearing took place at the request of IT to enforce the settlement.
7. During the second hearing it was acknowledged that LL was now parking his car in his garage which was one of the main areas of contention.
8. However, there was still dispute about whether or not IT has made the garden area “nice” and there was dispute about where LL’s visitors would park their cars.
9. IT also said he wanted compensation for the times that LL did not park his car in his garage as agreed.
10. The settlement agreement however, did not involve the payment of sums of money.
11. I am not satisfied that there is any jurisdiction to simply award compensation because there was never any agreement that it would be awarded upon default of any of the terms of the settlement.
12. While it was hoped that the parties could learn to continue to live peacefully as neighbours, the Disputes Tribunal is limited in its jurisdiction and attempts during both hearings to mediate an outcome have not been entirely successful.

13. For these reasons the claim is dismissed and no order for enforcement is made.

Referee: K Johnson
Date: 02 November 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>.