



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

District Court

[2021] NZDT 1345

**APPLICANT**      **K&B Partnership**

**RESPONDENT**    **JC**

**The Tribunal hereby orders:**

JC is to pay K&B Partnership (the Partnership) \$15,000 on or before 5 May 2016.

**Reasons**

1. The Partnership claims \$15,000 in compensation from JC for an animal it owned that JC admits he shot.
2. The key issue I have to decide is whether it is more probable than not that the animal was shot on Partnership land.

**Was the animal shot on Partnership land?**

3. The Partnership runs a [redacted] park in accordance with the provisions of the Wild Animal Control Act 1977 (WACA). In short what this means for this matter is that the Partnership obtains ownership rights in the animals held on the Partnership's property.
4. JC has explained that the animal was shot in an area of DOC land that has tussock on it and that was the area he was in when a photograph of him sitting on top of the animal after it had been shot was taken. JC's hunting partner that day, Mr K, also says the photograph was in the same area of DOC land.
5. However, I consider the best evidence of where that photograph was actually taken is that evidence produced on behalf of the Partnership. This is because I am satisfied the Partnership has taken a later photograph in the same area that JC is posing. I say this because when I compare both photographs I find there is a striking similarity in three specific areas of foliage visible in both photographs. Although JC points out that all tussock areas looks very similar regardless of where photographs are taken, I consider the particular shapes, colouration and juxtaposition of the shrubs in the two photographs to coincide because they are the same area. I consider it improbable that any other area of tussock could produce the same spatial co-ordination of particular foliage evident in the two photographs. This area is inside the Partnership's fence line.
6. I also accept the Partnership's evidence that the remains of a headless animal were found in this photographed area. JC says there is no DNA evidence available that proves these remains are the same animal that he shot. While it is clear the animal remains had degraded to the

point no useful DNA sample could be obtained, the other evidence presented leads me to believe this was the animal at issue in this claim. This is for the following reasons: First, there is evidence that the Partnership's guide saw the animal in the area the photographs were taken around the time the animal was killed; second, the Partnership's evidence is that no other animals were shot in this area by its clients.

7. I therefore consider the animal remains are most probably those of the animal that JC shot and the photograph was taken in the area it had just been shot in.
8. I cannot therefore accept JC's evidence the animal was not shot on Partnership land. Further, I did not find JC's evidence to be corroborated by his hunting companion Mr K as I did not consider Mr K's evidence was reliable or credible. Mr K seemed to me to be a vague and evasive witness when questioned by the Partnership and my impression was he was attempting to have his evidence 'fit' JC's version of events rather than accurately recounting what had occurred.
9. For the above reasons I consider the animal was most probably shot on the Partnership land.
10. I note I am not satisfied it is appropriate to infer any refusal by JC to discuss matters further with the Police as being evidence of dishonesty given JC appears to have simply exercised his right to silence.
11. The animal was the Partnership's property when JC shot it. I am satisfied this amounted to a conversion at law and the Partnership has suffered loss as a result.
12. There was no evidence disputing the value of the animal as a trophy fee for the Partnership as being the USD\$20,000 claimed. Accordingly, I find JC liable to the Partnership for NZD\$15,000 which is the maximum sum claimable in the Tribunal's jurisdiction.
13. Finally, as I have made this finding I do not need to consider further issues regarding compensation, if any, that arise under the WACA that would have arisen had I found the animal to have been shot on DOC land.

**Referee: J Costigan**

**Date: 14 April 2016**

## 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 or a mistake was made.

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 28 days of the decision having been made. If you are outside of time, 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.

### Ground for Appeal

There is only one ground for appealing a decision of the Tribunal. This is that 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.

A Notice of Appeal may be obtained from the Disputes Tribunal website. The Notice must be filed at the District Court of which the Tribunal that made the decision is a division, within 28 days of the decision having been made. There is a \$200 filing fee for an appeal. You can only appeal outside of 28 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, and 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: [www.justice.govt.nz/fines/civil-debt](http://www.justice.govt.nz/fines/civil-debt)

### Help and Further Information

Further information and contact details are available on our website:

[www.justice.govt.nz/tribunals/disputes-tribunal](http://www.justice.govt.nz/tribunals/disputes-tribunal).