



(Disputes Tribunal Act 1988)
ORDER OF DISPUTES TRIBUNAL

[2023] NZDT 593

APPLICANT KQ

RESPONDENT LI

The Tribunal orders:

1. LI is to pay KQ \$4500 by 27 November 2023.
2. KQ will make the car available for LI to uplift when the full sum of \$4500 has been paid to her.
3. The bank account for payment is [redacted].

Procedural matter:

1. Referee Meyer first dealt with this claim in a hearing without LI. Referee Meyer rang LI for the hearing using the phone number on the file. Soon after the hearing ended, LI phoned the court saying he was waiting for the call on his wife's phone as the correct number to use.
2. Referee Meyer withdrew from the hearing and it was set down before me on 16 October 2023.
3. The court sent email to LI on 28 August 2023 giving notice of the hearing on 16 October before me. LI replied immediately that the number to be used was his wife's number – [redacted].
4. I rang the parties on 16 October, getting LI on his wife's phone and part heard the claim. LI agreed to pay KQ \$4500 and the adjournment was to give him 2 weeks to arrange a loan from his mother so he could pay KQ in full and not by instalment.
5. I was able to obtain a date and time for the next hearing while the parties were still on the phone and both agreed 31 October at 11.30am suited them.
6. At the resumed hearing I called LI several times on the same number, his wife's, but without success. I left him a message that I would call back in a few minutes and did so, without success.
7. I explained to KQ that as LI had agreed to pay her \$4500 I was able to write the order in her favour. KQ said she did not want to consider instalment payments and KQ was reasonably confident he could obtain a loan.
8. KQ said she did not want to return the car until the full sum was paid.
9. At 2.59pm on 31 October the court received an email from LI using the email address he supplied to me earlier as his best email address. He said he had just rung [City] court and his wife told him she had missed 2 calls earlier today. He said I should have called him on his number [redacted]

which was the number for the previous conference. He said it was unacceptable that I had called him on his wife's phone number.

10. However, the file is clear that LI asked for his wife's number to be used for my hearing with the parties on 16 October, and he answered this and participated in the hearing. He was told I would phone both parties at 11.30am on 31 October and he did not ask for a different number to be used.
11. LI did not contact the court at the hearing time, but waited two and a half hours before contacting the court. He agreed to pay KQ at the hearing on 16 October.
12. On this basis I am satisfied he had opportunity to attend hearings and provide his side of the story. I note that LI took the same action in the hearing before Referee Meyer. In that hearing LI's phone number was [redacted]. The Referee noted that LI initially answered then hung up, then did not answer 2 further calls. Then later that day he called the court and provided his wife's number to be used, not the number in the claim form.

Referee: J Savage
Date: 6 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>.