



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

[2023] NZDT 632

**APPLICANT**      **KT**

**RESPONDENT**    **D Ltd**

**The Tribunal orders:**

D Ltd pay KT \$214.50 on or before 22 December 2023. KT is to return the lockset on receipt of the refund.

**Reasons**

1. KT purchased a fender and lockset from D Ltd for \$429.00 being parts from a [car]. KT says that the parts he purchased are not of acceptable quality. He claims a refund for the parts.
2. The issues to be determined are:
  - a. Were the parts of acceptable quality?
  - b. If not, what remedy is available in the circumstances?

**Were the parts of acceptable quality?**

3. I find that the fender was acceptable quality but that the lockset was not.
4. D Ltd advertised on [website] selling parts of a [car] that was going to be wrecked. Advertising stated that interested parties indicate the parts that they wanted. There were, as I understand it, a couple of photos of the vehicle on the site but from a distance.
5. KT messaged and asked for the fender and the lockset. KT did not enquire as to the condition of the parts he wished to purchase. D Ltd did not provide KT any details on the quality of the items requested.
6. KT says that the fender has dents in it and is scrap quality (and not useable). And, that the lockset has missing parts.
7. D Ltd states that the condition of the fender was reasonable to the age of the vehicle that was being wrecked. And that there were photos of the vehicle provided on the listing.
8. Both parties agreed that the fender could have been dented during shipping. There is no evidence as to the condition of the fender prior to shipping.
9. In terms of the lockbox, D Ltd acknowledged that they had not checked the order for all the parts prior to shipping and as such, were agreeable to refunding KT for the purchase.

10. D Ltd said that as the purchase was not itemised, they would refund 50% of the purchase price for the lockset.
11. The purchase of the parts is covered by the Consumer Guarantees Act 1993 (CGA) which provides that all supplies of consumer goods in trade come with a guarantee that the goods will be of acceptable quality, which includes that they will be as free from minor defects and as durable as a reasonable consumer fully acquainted with the state and condition of the goods would regard as acceptable, having regard to factors such as the nature of the goods, the nature of the supplier and the context in which the supplier supplies the goods, etc (section 7(1) of the CGA refers).
12. D Ltd advertised the sale of parts from an approximately 20-year-old vehicle which was being wrecked. KT was aware that the parts he was requesting was being sourced from such a vehicle.
13. I find that a reasonable consumer would expect parts from such a vehicle to have defects given the age of the vehicle, and the fact it was being wrecked. As such, I find that the fender, in the context of the present facts, was of acceptable quality.
14. I find the lockset was not as it did not include all the parts that it should have included.

**If not, what remedy is available in the circumstances?**

15. As the price paid has not been itemised, I accept D Ltd's allocation of 50% to each of the parts bought by KT.
16. For these reasons I find that D Ltd is liable to refund KT \$214.50, which is half of the cost of the parts that KT purchased, for the failure to provide the full lockset. KT is to return the lockset to D Ltd on receipt of the refund.

**Referee: Arti Chand**  
**Date: 23 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>.