



(Disputes Tribunal Act 1988)
RESULT OF APPLICATION FOR REHEARING

[2023] NZDT 754

APPLICANT NK
person or organisation making
the original claim

RESPONDENT ND
person or organisation originally
claimed against

Result of application for rehearing: Rehearing Refused

The Order of 5 September 2023 stands.

Reasons for decision:

1. NK filed a rehearing application on 28 September 2023, dated 22 September 2023, saying he was not informed of the hearing date and had to do the hearing in his car without his notes or documents relating to the case and because of this there was confusion about the amount ND had paid him and then owed. He maintained the original price for the car was \$7,500.00 but he had agreed to \$6,500.00 if it was paid by the end of the month, which it was not.
2. A hearing to consider the rehearing application was held on 6 December 2023.
3. The Notice of Hearing dated and sent on 8 August 2023 for a teleconference hearing on 30 August 2023 was sent by post to the same address as that provided by NK in his claim.
4. NK provided several documents supporting his claim prior to the hearing and participated fully in the hearing. Further, he was provided with an opportunity to confirm the amounts paid by ND immediately after the hearing, and confirmed the amounts paid by ND in a Statutory Declaration dated 31 August 2023, which was received and considered as part of the hearing evidence. NK was asked whether there was any evidence he would have provided differently had he not participated in the hearing from his car, to which he answered probably not, although he would have felt better prepared. Therefore, NK was not prejudiced by participating in the hearing by teleconference in his car.
5. The Order of 5 September 2023 made a finding based on the evidence provided by both parties, which included their different perspectives on the conditions of their agreement, as to the amount agreed by the parties for the car. A rehearing will not be granted because the parties are merely unhappy with the decision.

6. ND provided a new valuation of the car, which pre-dated the hearing and so could have been provided by him prior to the hearing, as could have any other documents to support his defence. NK said new valuations were irrelevant as both had different views of this issue.
7. As such, I am not satisfied there has been a substantial wrong or miscarriage of justice and a rehearing is refused.

Referee: Price, C - DTR
Date: 7 December 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>.