



(Disputes Tribunal Act 1988)
ORDER OF DISPUTES TRIBUNAL

District Court

[2023] NZDT 392

APPLICANT **NT**

**FIRST
RESPONDENT** **DN Ltd**

**SECOND
RESPONDENT** **DNR Partnership**

The Tribunal orders:

The claim is dismissed against both respondents.

Reasons

1. NT's claim involves a dispute arising from his purchase of a house from B D and IN. DNR were BD and IN's solicitors for the house sale. DN Ltd was not involved in the matter and does not trade (it appears the company was named following correspondence with the Tribunal because NT did not name any legal entity when he first lodged the claim, rather he named 'DNR' three times with three different 'organisation contacts'). For the sake of clarity, I have included both the incorrectly named 'DN Ltd' and DNR Partnership because the partnership DNR Partnership was the vendors' solicitor.
2. NT's dispute arises in contract (under the sale and purchase agreement) and the contract was with the vendors so he can only bring a claim in contract against the vendors. He has outlined no other legal basis for a claim against the vendors' solicitors. He says he named them because he has no contact details for the vendors who he understands to have moved overseas permanently. For all these reasons the matter is dismissed.
3. DN (for both respondents) requests costs be awarded of up to \$500.00 due to what he says was NT's frivolous and misconstrued claim and his scatter-gun approach to the naming of respondents.
4. It is my observation that many lay parties that come before the Tribunal do not understand the difference between various legal entities. In my view that does not necessarily signal 'bad faith' as DN for the respondent has suggested. I note that NT did not claim against any of the law firm's staff personally, rather he had named three different people as 'Organisation's contact' people on the claim form.
5. DN has pointed out that he sent a letter to both the Tribunal and NT after the claim was lodged stating that the claim was misconstrued. I imagine that was probably of little assistance to NT because it was not specific enough to alert him to the fact that he had named entirely the wrong

party/parties for a claim based on a sale and purchase agreement. Further it is not necessarily reasonable to expect applicants to take advice from respondents.

6. Given that the Disputes Tribunal is a forum for lay people who are often not sure of the correct party to claim against and/or not sure of the legal basis for their claim, the threshold for viewing a claim as frivolous or vexatious is necessarily very high. Filing a frivolous or vexatious claim is one of the few circumstances under which the Disputes Tribunal may award costs (section 43(2), Disputes Tribunal Act 1988), I do not consider that this case meets that threshold and I do not award costs.

Referee Perfect
Date: 10 August 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>.