



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

[2023] NZDT 699

**APPLICANT**      **NW**

**RESPONDENT**    **LO**

**APPLICANT'S**    **X Ltd**  
**INSURER**  
**(if applicable)**

**The Tribunal orders:**

The claim is dismissed.

**Reasons:**

1. NW and LO were in a relationship. In 2020, they rented a storage unit to store their belongings. The unit was in LO's name and she paid the rental.
2. In late 2021, LO went overseas. While she was away, NW took over the unit payments.
3. The relationship between the parties deteriorated while LO was away and eventually ended. They exchanged emails about their possessions and in February 2022, NW claims he delivered all LO's belongings to her home. His belongings remained in the unit.
4. In July 2022, NW claims he went to clear the unit, however was denied access as he was not the account holder. He asked LO for his belongings and she arranged for various items to be delivered to him. NW however claims 16 items were not returned, valued at over \$3000. NW claimed in the Disputes Tribunal in May 2023 to recover the value of those missing items.
5. X Ltd confirmed the goods were not covered by NW's policy.
6. The issues for the Tribunal to determine are:
  - i. Did LO retain possession of NW's belongings?
  - ii. If so, what has she retained?
  - iii. What is the value of those items?

***Did LO retain possession of NW's belongings? If so, what has she retained? What is the value of those items?***

7. In the event LO has retained NW's possessions, she may be liable to return them or to compensate him for their value.

8. LO however states she returned all NW's belongings that she had in her possession. LO states she returned to New Zealand in April 2022 and decided to close the storage unit as she was concerned it was still in her name. When she entered the unit, the only items inside belonging to NW were those that she has returned.
9. LO further stated that some items in the unit belonged to her. Other items belonging to her were missing.
10. The unit was accessible by only NW and LO. However there is no independent evidence to support what may have been in the unit when LO opened it in April.
11. The onus of proof is always on the applicant to prove their claim before the Tribunal. As there is no independent evidence to support the claim that the unit held NW's belongings when LO entered it in April, or that she has possession of his belongings, the claim cannot succeed.
12. It is also noted NW did not provide evidence to support the value of the items claimed.
13. The claim is accordingly dismissed for failure of proof.

**Referee: DTR Edwards**  
**Date: 15 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>.