



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

[2023] NZDT 559

**APPLICANT**      QD Ltd

**RESPONDENT**    SI

**APPLICANT'S**    J Ltd  
**INSURER**

**The Tribunal orders:**

1. SI is to pay QD Ltd's insurer J Ltd, \$4543.05 on or before 30 November 2023.

**Reasons:**

1. Mr X, a director of QD Ltd, and SI were involved in a motor vehicle collision. Mr X was reversing from a driveway into [road] and says he was waiting to re-enter the traffic. SI was reversing from a carpark on the roadway to enable him to enter the roadway. QD Ltd alleges SI reversed into its stationary vehicle and caused the collision. QD Ltd and its insurer, J Ltd, claim \$4543.05.
2. The issues I must decide are:
  - a. Did SI check the space behind him was clear before and during his reversing manoeuvre?
  - b. Is the quantum of \$4543.05 claimed by QD Ltd, and its insurer reasonable?

**Did SI check the space behind him was clear before and during his reversing manoeuvre?**

3. The relevant law is the law of negligence relating to damage to property. A finding of negligence requires that there is a duty of care, a breach of that duty, and damage as a direct result of that breach. All drivers have a duty to take care not to damage other vehicles or property while they are driving. When reversing, drivers must take special care to ensure that the way is clear before and during a reversing manoeuvre.
4. Mr X states he had reversed down the driveway and was stopped and waiting for traffic to clear before reversing into an oncoming lane when he was hit by SI. He states he had been stopped for about 30 seconds. Copies of photos, diagrams and driver reports were provided to the Tribunal.
5. SI states he was parked on the side of the road and needed to reverse before being able to proceed on the road. He states he checked both side rear vision mirrors, his rear view mirror and as well his reversing camera and there was no traffic. He states he proceeded to reverse, and he

was hit by Mr X reversing down the driveway. He states Mr X is at fault because he failed to give way to traffic already on the road and did not check in all directions that it was safe to reverse out of the driveway onto the road. SI states his vehicle was not damaged because it was his towbar that was hit.

6. In this situation both parties' version of events places the other driver at fault. The photos of the damage to QD Ltd's vehicle show no scraping to the side of the vehicle. Scraping would be evidence that QD Ltd's vehicle was moving. The photo is evidence of direct impact damage. This is strong evidence that QD Ltd's vehicle was stationary at the time of the collision. If SI's version of events was correct one would expect he would have suffered some damage to his vehicle and there was no damage. For these reasons, I find that Mr X's vehicle was more likely than not stationary and SI has breached his duty to ensure the way was clear both before and during his reversing manoeuvre and reversed into QD Ltd's vehicle.

**Is the quantum of \$4543.05 claimed by QD Ltd, and its insurer reasonable?**

7. When one driver breaches a duty and cause damage to another's vehicle, they are liable for repairs for damage they caused.
8. QD Ltd and its insurer claim \$4543.05. They provided copies of photos, an assessment of the damage and an invoice.
9. The repairs to QD Ltd's vehicle are consistent with the damage caused. The assessment is detailed, and the invoice is consistent with both the damage and the assessment. For these reasons, I find the amount claimed is reasonable.

**Referee: C Murphy**  
**Date: 17 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>.