



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

District Court

[2023] NZDT 107

**APPLICANT** SQ

**RESPONDENT** LD

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

**The Tribunal orders:**

The claim is dismissed.

Reasons

1. SQ claims that LD drove into the rear of his car at the lights that had just turned from orange to red on [Road]. LD denies making contact with SQ's car and points out that there was extensive bumper damage at the sides of SQ's bumper that is not consistent with a rear impact.
2. At the second hearing, when LD's close-up photographs of SQ's bumper were available, OP from J Ltd acknowledged that some of the damage visible in the photographs had been pre-existing on SQ's car.
3. OP identified the area in the middle of the rear bumper under the number plate as the point of impact to SQ's car. The photograph of that area shows no visible denting or impact to the bumper area and there were no photographs of the area behind the bumper provided by SQ/J Ltd to show any internal damage. Some minor paint chip spots are visible on the outside of the bumper below the number plate but they could be simply general wear and tear.
4. In contrast, the photographs of the pre-existing damage show significant cracking on the right-hand side of the rear bumper and obvious misalignment on the left-hand side of the rear bumper – LD's view is that this is consistent with SQ's vehicle having hit a pole or something similar at the corner with the bumper area having been shunted sideways, referring damage to the left-hand side.
5. Based on the information available, I find that even if LD's vehicle did make contact with SQ's, and there is no physical evidence to prove that there is insufficient evidence to prove that any loss was caused, because SQ's vehicle looks to have been in a pre-existing state such that a full bumper replacement was already necessary, so any impact by LD has not caused any further loss. The claim is dismissed.

**Referee Perfect**  
**Date: 10 February 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>.