



(Disputes Tribunal Act 1988)
ORDER OF DISPUTES TRIBUNAL

District Court

[2023] NZDT 54

APPLICANT TE

APPLICANT TT

RESPONDENT ST

The Tribunal orders:

The claim by TE and TT against ST is struck out for want of jurisdiction.

Reasons

1. The parents of TE and TT (the applicants) died “intestate”. The applicants now bring a claim against ST who is their sibling (the respondent) for funeral costs for their mother in the sum of \$11,870.00.
2. The issues to be resolved are:
 - (a) Does the Disputes Tribunal have jurisdiction to hear a claim in relation to a sum of money left “intestate”?
 - (b) If so, what is the remedy?

Does the Disputes Tribunal have jurisdiction to hear a claim in relation to a sum of money left “intestate”?

3. The applicants explained to the Tribunal that their father specifically told them that he had enough money for his funeral and the applicant’s mother’s funeral. They said that the respondent has wrongfully kept the money for herself and that it is only fair that the respondent use their parent’s money to pay for their mother’s funeral expenses because that was their parents wish.
4. The applicant’s said that they weren’t interested in any other money that may be left from their late father and mother’s estate but only the funeral expenses.
5. The respondent said that she had done all the work looking after her late parents and that her father had specifically left any money to the respondent for her personal use. She said that she had a bank account where her late mother was a secondary signatory. She said that the money that her father left was given to her and that there is no estate to argue over.
6. I have read the documents provided by the applicants and listened to oral submissions by both the applicant’s the respondent.

7. I am satisfied after considering the submissions and the jurisdiction question, that I do not have jurisdiction to hear the claim. I make my finding for the following reasons:
8. The Disputes Tribunal has jurisdiction to hear claims limited to certain categories.
9. The Disputes Tribunal Act 1988 the (Act), Section 10 provides that the Tribunal can hear claims in relation to: contract or quasi contract or 'torts' in relation to the loss of property or destruction of property.
10. Further limits are provided by Section 11 of the Act which specifically says: "The Tribunal shall have no jurisdiction in which there is a dispute concerning—the entitlement of any person under a will, or settlement, or on any intestacy (including a partial intestacy)".
11. I find that the claim before me does not fit into any of the categories that the Tribunal has jurisdiction to hear in the Act section 10 and further that the claim for money that may exist belonging to a deceased person without a will or probate is a dispute concerning any "intestacy".
12. Further the Administration Act 1969 specifically deals with intestacy.
13. Because of my findings there is no need for me to consider the issue of "remedy".
14. For these reasons I confirm my discussion during the hearing, and I find that the Disputes Tribunal has no jurisdiction to hear the claim by the applicants against the respondents and the claim is struck out.

Referee: K Johnson
Date: 26 January 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>.