



(Disputes Tribunal Act 1988)
ORDER OF DISPUTES TRIBUNAL

District Court

[2023] NZDT 117

APPLICANT TQ

RESPONDENT IU

The Tribunal orders:

IU is to pay TQ \$983.49 by 20 March 2023.

Reasons

1. TQ's claim seeks the return of a [redacted] vehicle.
2. TQ submitted that she purchased the vehicle from IU, but he has refused to give it to her.
3. The hearing took place by phone on 1 March 2023. TQ participated in the hearing. I was not able to contact IU on the phone number provided.
4. TQ became aware of the vehicle through a friend (or possibly relative) of IU.
5. She contacted IU about the vehicle.
6. TQ submitted that she made a deal to purchase the vehicle from IU in exchange for a chainsaw and a mobile phone.
7. TQ submitted that she owned a chainsaw and a mobile phone, but at the time those items were in the possession of [pawn shop].
8. When she went to [pawn shop] to redeem them, they had been sold.
9. At some stage during this process (the sequence is not entirely clear), TQ had repair work done on the vehicle at a cost of \$983.49.
10. The circumstances around the 'sale' of the vehicle are odd, and there is no written record of any communication with IU about the deal.
11. In any event, even accepting all of TQ's oral evidence about the deal, I must conclude that she is not the owner of the vehicle. The deal she made with IU required her to give him the chainsaw and mobile phone, and she failed to do so. The deal did not go through. IU remains the owner of the vehicle.

12. Therefore I cannot make an order for the “return” of the vehicle to TQ. However, I will make an order for the cost of the repair work. TQ provided evidence showing that WINZ paid \$983.49 to [automotive repair shop] in [city], and that she is re-paying that debt to WINZ.
13. This corresponds with a quote from [automotive repair shop] that TQ provided in her evidence. The quote covers work on the immobilizer and battery.
14. TQ paid for that work but, because the deal did not proceed, she has not received the benefit of it.
15. Applying the equitable principle of unjust enrichment, my finding is that it would be unjust if IU was to retain the benefit of that repair work at TQ’s expense.
16. IU is to pay TQ \$983.49.

Referee: Nicholas Blake
Date: 1 March 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>.