



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

District Court

[2023] NZDT 486

**APPLICANT** WC

**RESPONDENT** HM

**The Tribunal orders:**

The claim is dismissed.

**Reasons:**

1. When WC moved in with her partner at [address] in February 2022, she formed a bond with a young white and ginger tabby tom cat who regularly visited her. She called him P and said the window was left open for him to come and go as he pleased. Most nights he slept in her bed. A notice was placed on the community Facebook page asking if anyone owned P and no response was received. WC decided P was a stray cat in need of care. She took him to the vet to be vaccinated and to treat a weeping eye. She arranged for him to be microchipped and registered in her name, and also obtained pet insurance for him.
2. WC was therefore understandably upset when HM knocked on her door in July of this year and asked that she not feed his cat T, a young ginger and white tabby cat. Since then T has not visited as he used to. WC claimed for an order that she take possession of the cat and be compensated for the expenses she incurred and for the emotional distress she has endured.
3. The foundational issue to be resolved is who is the owner of the ginger and white tabby cat?

**Who is the owner of the ginger and white tabby cat?**

4. WC does not dispute that HM owned T, but she claimed that she be given possession of him because she had provided care for him when he needed it and had incurred some expense as a result. She had arranged for him to be microchipped and to be noted as his owner. She had purchased a formulated cat biscuit because she had noticed he was getting fat. WC clearly found it upsetting that T no longer visited or slept on her bed.
5. HM said he owned T since he was a kitten and provided evidence from the breeder to that effect. He said he owned both T and his sister, and is clearly attached to them both. He agreed that T is a friendly and adorable cat, however, he did not know that WC was letting him into her home, feeding him or taking him to the vet. HM also takes T to his own vet and has had him neutered. Since this issue arose, HM has been visited by both the Police and SPCA. He said they found T was in good condition. HM wanted to be left alone to enjoy and care for his own pets.

6. I agree with HM that it is the nature of a friendly cat to make neighbourhood visits. However, T is owned by HM and WC does not have title to him. It is for HM to take T to the vet and determine the food he will eat. HM was unaware that WC was incurring any expense for the care of T and considers that she has interfered in his caring for T.
7. The expenses WC says she has incurred were based on a presumption that T was a stray and was always subject to the very real risk that he already had a owner. Although I have some empathy for WC and how endearing T is, the way the law operates is that T is owned by HM and she is not entitled to assert herself in his place. As WC has no title to T, her claim must be dismissed.
8. It is most unfortunate that as a result of this dispute that the Police have had to be involved and each party said they have taken out a non-harassment order against the other. Now that the legal position is clarified, it is hoped that the parties can put behind them the upset this has caused.

**Referee: Ms Cowie**  
**Date: 2 October 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>.