

Car & vehicle accident claim example for the Disputes Tribunal

The cause of the dispute

Tania Smith was driving home at 4pm on 9 April 2014 when another vehicle didn't stop at the 'Give Way' sign on the corner of Troy Street and Wellington Avenue. The cars collided. No one was hurt but both vehicles were damaged. The other car was driven by Tom Payne.

The drivers stopped and swapped phone numbers and addresses. Neither driver had insurance. The police were called. Tom was given a ticket for not giving way.

Tania phoned Tom 3 times to try and sort out payment for the damage to her car. Tom didn't respond. He now claims that Tania was speeding.

Tania finds out how to make a claim

Tania checks the Disputes Tribunal web pages to find out how to apply. Because it's easier and quicker, she decides to apply online.

Tania gets 3 written quotes to repair the damage to her car as no insurer is involved.

Tania prepares to make her claim

Tania gathers the following information:

- Toms' contact details
- a description of what she's done to try and settle the dispute with Tom
- a description of events including:
 - when and where the accident happened
 - what she thinks caused the accident
 - how much money she's claiming
 - the road and weather conditions at the time
 - her witness
 - what the police did
 - what she's claiming for.

She electronically scans her repair quotes so she can attach these to her online application.

She gets out her credit card so she can pay the application fee.

She fills in the online claim form.

The Disputes Tribunal sets up the hearing

When the Disputes Tribunal gets Tania's claim, they contact Tom. Tom gets a copy of the claim and the other documents that Tania gave the Tribunal and a notice of hearing so he knows what is being claimed. Tom can either:

- contact Tania to settle the dispute without having to go to the Tribunal **or**
- do nothing and let the claim go ahead.

Tania also gets a notice telling her the date, time and place of the hearing.

Tom's response when he finds out about the claim

When Tom gets the notice of hearing, he decides he wants to claim for the damage to his car. He feels Tania caused the crash by driving too fast.

The damage to Tom's car costs \$500. To claim this money, he needs to file a claim against Tania. This is called a counterclaim.

Tom prepares his counterclaim

Tom needs evidence to show that Tania caused the crash by speeding. He asks the police for a copy of the police traffic crash report. This shows the length of tyre marks made by Tania's car before the accident. It notes that Tania must have been going faster than the 50km/h speed limit. Tom believes that he would have cleared the intersection safely if Tania hadn't been breaking the speed limit.

Tom gathers the following information:

- the standard Disputes Tribunal claim form he's downloaded from the Tribunal's web page
- his description of what happened
- the notice of hearing so he has the CIV number
- his cheque book to pay the fee.

He fills in the form. He writes 'counterclaim' and the CIV number across the top. He adds a copy of the police report. He mails these to the Tribunal.

Tania and Tom prepare for the hearing

Both Tania and Tom know that if they're well prepared, they'll be able to present their side of the story clearly at the hearing.

Tania writes out a statement to make sure her case is clear and logical. She plans to read out the statement so she doesn't have to remember the details. She'll also give a copy to the referee so it's easy for them to follow her case.

Tania's statement

'On 9 April 2014 I was driving home after work along Troy Street. It was 4pm and visibility and driving conditions were very good. As I approached the top of the hill, a car driven by Tom Payne failed to stop at the 'Give Way' sign on the corner of Troy Street and Wellington Avenue.

Here I will present a diagram of the accident site to better demonstrate how the accident occurred.

I tried to stop, swerved and crashed into the rear of his car on the driver's side. (I will produce photos showing exactly where my car was damaged.)

No one was hurt but both vehicles were damaged. Tom caused \$3000 worth of damage to my car.

I will produce 3 quotes for the cost of the repairs:

- Pete's Panel beaters \$3350
- Central Panel beaters \$3195
- Ace Panel beaters \$3000

Both Tom and I stopped at the accident and exchanged telephone numbers and addresses. We were both uninsured. The police came and gave Tom a ticket for going through a 'Give Way' sign.

I phoned Tom on 3 occasions in an effort to resolve how the \$3000 damage to my car would be paid for. However, Tom was not responsive and is now claiming that I was speeding.

When the referee asks to hear our witnesses, I will call my passenger Marie. Marie will testify that the road conditions were good, I was travelling within the speed limit and Tom simply failed to stop at the 'Give Way' sign.

What happens at the hearing

Tania arrives early at the District Court with her witness Marie. They find the Disputes Tribunal waiting area. Tom arrives soon after.

Referee makes introductions and explains the process

Robin Lee, the referee, calls them all into the hearing room. It's set up like a meeting room with chairs around a table. Robin introduces everyone and explains how the hearing will work. This includes not interrupting the other person while they tell their side of the story; Robin asks them to write down anything they disagree with as they'll get a chance to comment later.

Robin asks Marie to go into the waiting room until she's called as a witness.

Presenting the cases

As the applicant, Tania speaks first.

When she's finished, Tom gets to speak. He explains his counterclaim and shows the police report as evidence.

Robin calls Tania's witness, Marie, and asks her what she saw.

Referee gives a summary and tries to get agreement

Robin explains the law, identifies points that the parties agree on, points that they disagree on, and areas for discussion.

Both parties get to make comments and ask questions to clear up points that they disagree on. Robin points out the strengths and weaknesses of each case. Robin encourages Tom and Tania to agree between themselves how to settle the dispute.

Referee decides the claim

Both Tom and Tania feel that the other person caused the accident. Robin finds that they can't reach a joint decision. Because of this, Robin makes the decision based on the evidence and the law.

Robin tells them that it's most common for the decision to be made after the hearing. In this case, because they were both well prepared, Robin can give them the decision straight away. Robin writes out the decision (or 'Order'), reads it out and gives it to both Tania and Tom.

It's now up to Tom and Tania to make sure they follow this decision.