

**BETWEEN**

**ADO**

APPLICANT

**AND**

**ZWL Ltd**

RESPONDENT

Date of Order:

30 March 2011

Referee:

Referee A Davidson

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**ORDER OF THE DISPUTES TRIBUNAL**

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**The Tribunal hereby orders that the Applicant's claim is struck out.**

## **Facts**

[1] The Applicant, ADO, purchased a vehicle from ZWL Ltd in late 1996. In due course, ADO found that he was unable to afford repayments on the vehicle and so returned it in 1997. When the vehicle was returned, ADO says he was told that there was nothing more owing on the vehicle; however, in late 1998, ZWL Ltd notified ADO saying that \$4,400.00 was owing. ADO paid the amount off from mid 2000 at the rate of \$10.00/week over a number of years. ADO now believes that he did not really owe the money and that it should be repaid.

## **Law**

[2] The law governing this claim is the law of contract and ss 4(1) and 24(b) of the Limitation Act 1950.

## **Decision**

[3] ADO's cause of action, that he is not liable for the \$4,400.00, arose at the time that ZWL Ltd sought payment of that amount in late 1998. Section 4(1) of the Limitation Act 1950 provides that no action based on simple contract shall be brought more than 6 years from the date that the cause of action arose. In this case, ADO's cause of action arose in late 1998 and so on that basis he would be precluded from bringing an action after late 2004.

[4] During today's hearing, ADO argued that he has been affected by a disability during much of the period since he returned his vehicle to ZWL Ltd. The Limitation Act 1950 provides some relief to parties affected by disability. Section 24(b) of the Act provides:

### **24 Extension of limitation period in case of disability**

If, on the date when any right of action accrued for which a period of limitation is prescribed by or may be prescribed under this Act the person to whom it accrued was under a disability,—

...

- (b) in any other case the action may be brought before the expiration of 6 years from the date when the person ceased to be under a disability or died, whichever event first occurred...

[5] However, the relief provided by the Act is limited. Section 24 does not provide relief in all cases of disability. It states that where a person is under a disability “on the date when any right of action accrued”, the start of the limitation period may be delayed. In this case, the cause of action accrued in late 1998 when ZWL Ltd demanded the money from ADO. ADO was not affected by his disability until early 2000. On this basis, I find that while ADO may have been affected by a disability during the time that the limitation period was running, this is not a circumstance for which the Act provides relief. ADO was unaffected at the time that the cause of action arose in late 1998 and as such the limitation period started to run at that point and expired in late 2004.

[6] As ADO’s claim is outside of its limitation period, the Tribunal is barred from hearing it pursuant to s 4(1) of the Limitation Act 1950 and it must be struck out.