



(Disputes Tribunal Act 1988)
ORDER OF DISPUTES TRIBUNAL

District Court

[2021] NZDT 1625

APPLICANT BC

RESPONDENT BT

The Tribunal orders:

The claim is dismissed.

Background

1. BC purchased a [laptop] in December 2015. In September 2019 the laptop was not charging. BC took the laptop for repair. The BT agent tested the battery, cleaned the laptop inside, did a CMS and NVRAM reset, then removed and reattached the cable from the battery. Following this work the agent replaced the battery.
2. BC has made the claim because he believes that the battery failed prematurely and that the problem with the external charger was a fault he should not have to pay for.
3. The question is whether the laptop failed the guarantee of acceptable quality under the Consumer Guarantees Act 1993 (CGA).

Did the battery fail prematurely?

1. In order to get the best information about the state of the battery and repairs, the agent was phoned from the hearing. Unfortunately, because of BC's delay in making the claim, the vital information about the cycles of the battery was no longer available. The battery has a life of 1000 cycles. Information from the agent about battery cycles is available for up to six months after the repair. The information that the agent provided about the battery was that it was replaced, not because of a fault, but because it had been consumed. In other words, it was holding a charge but the amount of charge was insufficient and it therefore the battery had reached the end of its life and needed to be replaced.

2. From the evidence available I do not find that the battery was faulty. It had most likely been charged over 1000 cycles. The claim that the laptop was not of acceptable quality regarding the battery is therefore dismissed.

Was the laptop faulty because the laptop was not charging?

3. The laptop would not charge. This was a fault. This might be viewed as the laptop not being durable under the CGA guarantee of acceptable quality however there does not appear to be a loss if it was a failure. The laptop needed to go through diagnostic processes because of the battery failure. The amount of time the repairer would take to plug and un-plug the battery connection to re-establish the external charging was negligible. The laptop had to be opened up to replace the battery and the service charge was not increased from the minimum. The diagnostic work charge was covering all issues. From the evidence available it is not possible to determine that BC had a loss relating to the external charging issue and therefore this part of the claim is not successful.

Conclusion

4. For the reasons given above the claim must be dismissed.

Referee: B M Smallbone
Date: Monday, 12 July 2021



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>.