



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

[2023] NZDT 726

**APPLICANT** EN

**RESPONDENT** T Ltd

**The Tribunal orders:**

1. The claim is dismissed.

**Reasons**

2. In May 2022 EN had a solar system installed at his house by T Ltd. Some of the components were supplied by T Ltd. In May 2023, the solar inverter broke and needed replacing. T Ltd was in liquidation. A new part was provided and installed by T Ltd. EN is now seeking compensation because this replacement part was not the same as the one that was originally installed. He is seeking compensation on the basis that his solar system may now have a shortened life span.
3. The issue for the Tribunal is whether EN is entitled to compensation for the replacement part.

**Is EN entitled to compensation?**

4. EN explained that the company who installed the solar system had gone into liquidation so when the inverter broke, he approached the importer of the item. They said that they would replace the inverter with an inverter of the same type but of an earlier version as there was no stock in New Zealand at that time. After this inverter was installed, EN noticed that this was a pre-owned unit and had already been used at another location since July 2019. It was three years older than his original one.
5. EN has asked T Ltd for another inverter, but they have declined to supply one. EN's concern is that the older inverter will reduce the life span and the efficiency of the solar system as a whole. The expected life span of a solar inverter is between 10-15 years but he now has an inverter with a lifespan of less than that.
6. SE gave evidence for T Ltd. He confirmed that his company was the importer of parts used in solar systems. His company had supplied the inverter to T Ltd before it went into liquidation. He said that the type of inverter that had been used was not in New Zealand at the time, but they told EN they would replace it with an earlier model. The earlier model was just as good. SE said that they supplied and installed this part at no cost to EN. When EN raised concerns about the life expectancy of this part they offered to extend the warranty on it. This replacement unit had undergone testing and inspection and it was fully capable of meeting the expected performance standards.

7. The law relating to this claim is the Consumer Guarantees Act 1993. The Act requires goods to be of an acceptable quality. If goods are not of acceptable quality then the consumer may have a remedy against the supplier and/or the manufacturer. Where goods are manufactured outside New Zealand and the foreign manufacturer of the goods does not have an ordinary place of business in New Zealand, a person that imports or distributes those goods is deemed to be the manufacturer for the purposes of the Act.
8. In a claim against a manufacturer, the consumer may not reject the defective goods but they can obtain damages for any lost value and for any consequential loss arising from the breach. The right to reject the goods only applies to a claim against the supplier of the goods. The manufacturer has a defence against a claim if the goods fail to comply with the guarantee of acceptable quality because of a cause independent of human control occurring after the goods have left the manufacturer's control.
9. I have considered the evidence and I find that EN is not entitled to compensation. I say this because:
  - a. EN has not shown that there is anything wrong with the replacement inverter.
  - b. There is no evidence as to why the original inverter failed. It could have been faulty or it could have been installed incorrectly which would mean the manufacturer/importer would have a defence against any claim.
  - c. No loss has been suffered by EN. The Tribunal does not award compensation for future or hypothetical loss.
  - d. A manufacturer/importer is not obliged to provide replacement parts. It is only obliged to pay compensation for any lost value, and this has not been established in this case.
10. For these reasons the claim is dismissed.

**Referee:** LK Whineray  
**Date:** 20 December 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>.