



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

District Court

[2023] NZDT 299

**APPLICANT** NT

**RESPONDENT** D Ltd

**The Tribunal orders:**

1. D Ltd is to pay NT \$3,686.78. by Friday 30 June 2023.
2. Within 10 working days of payment to NT of the amount above, D Ltd is to arrange collection of the jacket from NT. If D Ltd has not collected the jacket by then NT can dispose of the jacket in any way she thinks fit.

**Reasons**

3. NT purchased a [designer] leather jacket from overseas in mid-2021. In December 2022 she took it to D Ltd to get it cleaned. On collecting the jacket, she noticed that the accessories (buttons) on the jacket were scratched and turned from a golden to a bronze like colour. Also, there were parts of the jacket, particularly in corners where the leather was damaged. She says she will never wear the jacket again.
4. D Ltd was represented by GT who is the director and sole owner of D Ltd. GT says he has over 20 years' experience in the dry-cleaning business. He says he cleaned the jacket himself.

*Did D Ltd provide the cleaning service with reasonable care and skill?*

5. Under the Consumer Guarantees Act 1993 (CGA) where services are supplied to a consumer (NT is a consumer for the purposes of the CGA) there is a guarantee that the service will be carried out with reasonable care and skill.
6. GT says he uses a Union drycleaning machine to clean leather items and uses the product Ktex Cleaning Solvent. He provided a Ktex brochure and in one part of the brochure it says that it is formulated to be gentle to most woven and non-woven items which it says includes most leather and includes trims and accessories (including buttons).
7. He also brought to the hearing a jar with Ktex solution and buttons in it and said the buttons had been soaking in the solution since that morning and there were no problems with fading of the buttons.
8. I note the brochure does not say its gentle with all leather and buttons.
9. GT says the label on NT's jacket did not say to cover the buttons. He says that they always cover buttons where the label says so.

10. GT refers to the Commerce Commission's fact sheet dated August 2019 about care labelling on textiles. This includes clothing. He points to the reference to "trims" where it says:

Trims (e.g., A fur collar): if any special treatment is required, the label must be specific to this.

Under the Consumer Information Standards (Care Labelling) Regulations 2000 NZ manufacturers, suppliers, importers and retailers must comply with labelling standards of certain goods which includes textiles. If they breach the standards they may be in breach of the Fair Trading Act 1986.

I note however that buttons would be accessories rather than trim. Further the overseas entity NT purchased the jacket from was based in France and she purchased it online. That business was not therefore an importer of the jacket for the purposes of the care labelling regulations.

11. Of importance is the label of NT's jacket which says:

Do not wash/Do not bleach/ Do not tumble dry/ Do not dry clean.  
Professional leather clean only.

*[emphasis added]*

12. The label clearly says not to wash the jacket and it is to be professionally cleaned only.

13. GT clearly washed the jacket in the machine referred to above. I asked GT whether the inside of the machine had an internal drum like a regular washing machine. He said yes.

14. Therefore, on the evidence before me I find it was more likely than not that the scratch marks on the buttons and the damages to some corners of the jacket were caused by washing the jacket in the machine (with a drum) when the label instruction clearly says, "Do not wash."

15. The fading of the buttons more likely than not was caused by the combination of the washing in that machine and the chemical.

16. As mentioned above the Ktex brochure does not say it is gentle for all leather and buttons

*What remedy is available?*

17. When services breach a guarantee in the CGA consequential losses are also able to be claimed. These would include losses of a type which are foreseeable or direct. Damaging the jacket by washing it (by not following the label instructions) would be both a foreseeable and direct loss.

18. Accordingly, NT is entitled to the amount she paid for the jacket (NZ\$3,601.78) plus the \$85.00 she paid. That amount is \$3,686.78.

### **Other matters**

19. NT does not want the jacket because of the damage. In any event as given my order against D Ltd, D Ltd would be entitled to the jacket. In this regard I refer to my order at paragraph 1.

**Referee: Ms Gayatri Jaduram**

**Date: 24 May 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>.