

Disputes Tribunal a cost-effective alternative to court action

WHEN DISPUTES arise in your business, going to court can be costly, stressful and time-consuming.

The Disputes Tribunal, a quick, efficient and inexpensive means of resolution, is worth considering. The hearings are much more informal than in the courts.

The tribunal can deal with claims of up to \$15,000; and up to \$20,000 if both parties agree.

To take a grievance to the tribunal there must be a genuine dispute. It is not merely a means of debt collection and can't be used where one person simply refuses to pay and does not dispute the account's legitimacy.

The claims process is simple. The claim form is available from the court registry and also on the Disputes Tribunal's website. The



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form should set out all the relevant information. You will need supporting information such as invoices, receipts and correspondence and you may wish to call witnesses to provide supporting evidence.

You must represent yourself in the hearing, as lawyers are generally not allowed to appear.

At the hearing, once the views of both parties have been heard, the referee will make his or her consideration, and then issue a binding decision. This means you must abide with the referee's decision. If you are not satisfied you can file an appeal, although the grounds for any appeal are limited. On appeal, you'll have to establish that the original hearing was conducted unfairly.

In 2008, the district court allowed an appeal in the case of *Bateman v Deepak*, concluding that the referee's formulation of the issue and his subsequent decision failed to take into account the overall business relationship between the parties. At the tribunal hearing the referee didn't allow Bateman's witness to give evidence, as he had formed

the view that the witness could not add anything to the case. The district court held that the referee was obliged to consider all the evidence.

The majority of disputes heard by the tribunal are about the sale of goods. Other matters commonly considered involve contractual disputes and disputes over invoices and payment methods.

Often, confusion over the terms of a contract will result in claim to the tribunal. In *H v M*, H quoted a price of \$30,000 to carry out some work on M's property. There was some urgency in getting the work done. M indicated he was prepared to pay a premium to have the work done promptly. The work was completed and an invoice issued. M sent a cheque in

full and final payment. It was not for the full amount invoiced, as M discounted the payment due to dissatisfaction with the work. H took umbrage and claimed the shortfall. It was concluded that an oral contract was in place and H succeeded in recovering the majority of the amount due.

The tribunal provides an efficient, cost-effective means of resolving disputes. It's well worth considering if your dispute meets the criteria. This will help avoid the costly process of litigation. There are also other alternative dispute resolution options such as arbitration and mediation.

Tanya Surrey is a lawyer with Mactodd in Queenstown. Information given in Your Law should not be a substitute for legal advice.