

Hire & Damages

Hire Company Pty Ltd

Claimant

Small Business Pty Ltd

Defendant

1. The Defendant does not admit paragraph 1 of the Statement of Claim as the Defendant does not know if the Claimant is a registered company.
2. The Defendant admits paragraph 2 of the Statement of Claim and says that the Defendant operates a road works business which requires water trucks to limit dust clouds.
3. The Defendant admits paragraph 3 of the Statement of Claim.
4. The Defendant admits paragraph 4 of the Statement of Claim and also say that it was a term of the agreement that the Water Truck would be suitable for use on muddy terrain (this was specifically discussed and agreed between Mr Green of the Claimant and Mr Brown of the Defendant on 1 January 2019).
5. The Defendant denies paragraph 5 and says the following:
 - (a) The Water Truck was only provided to the Defendant two days later than agreed.
 - (b) The Water Truck failed to work in muddy conditions and became bogged on the first day of hire.
6. With respect to paragraph 6 of the Statement of Claim, the Defendant
 - (a) admits receiving the Claimant's invoice; but
 - (b) denies any liability to the Claimant on the basis that in breach of the Agreement the Water Truck was not suitable for use in muddy conditions.
7. With respect to paragraph 6 of the Statement of Claim, the Defendant

- (a) admits that the Water Truck suffered damage; but
 - (b) says the damage was caused when the Water Truck became bogged and due to no fault of the Defendant.
- 8. The Defendant admits paragraph 8 of the Statement of Claim but denies any liability to the Claimant for the amounts claimed.
- 9. In addition, the Defendant says due to the Claimant's breaches of the Agreement, the Defendant suffered loss and damage in the sum of \$500.00:
 - (a) two days loss of profits whilst awaiting Water Truck: \$300.00; and
 - (b) hire of tractor to pull water Truck out of the mud: \$200.00.

The Defendant counterclaims

- A. damages in the sum of \$500.00
- B. interest on the sum of \$500.00 at 6% per annum pursuant to section 12 of the *Magistrates Court (Civil Proceedings) Act 2004* from 1 February 2019 to the date of payment;
- C. allowable costs.