TENANCY TRIBUNAL AT HAMILTON | TE TARAIPIUNARA RETIHANGA KI KIRIKIRIROA

APPLICANT:	Surendra Sharma Landlord
RESPONDENT:	Liza Jean Margaret Rack Tenant
TENANCY ADDRESS:	25 Trevor McMiken Drive, Patumahoe, Pukekohe 2679

ORDER

1. The application for rehearing is dismissed.

Reasons:

1. The landlord appeared by video link. The tenant did not join. Unsuccessful calls were also made to the tenant on the phone number they provided in their application for rehearing.
2. On 29 July 2025, the Tribunal made an order terminating the tenancy immediately, rent arrears to 29 July 2025 of $7,407.14, refund of the bond, and reimbursement of the filing fee. The tenant did not attend that hearing.
3. On 30 July 2025, the tenant applied for a rehearing on the grounds that the notice of hearing had not contained a video link, and they had been waiting for the Tribunal to call. The tenant also sought a stay of the termination. The rehearing application was set down, and a stay was granted conditional on the tenant making regular rent payments.
4. The landlord states that the tenant failed to make regular rent payments and vacated the property on 07 August 2025. The landlord also seeks to add claims for water rates and rent arrears from 29 July 2025 to the end of the tenancy.

However, the Tribunal is unable to amend the application, and the landlord must file a fresh application for these claims.

Law

5. Section 105(1) Residential Tenancies Act 1986 provides that the Tribunal has the power to order a rehearing where "a substantial wrong or miscarriage of justice has or may have occurred or is likely to occur".

6. Usually, the party applying for the rehearing must show that something went wrong with the Tribunal's procedure, for example, that they did not receive notice of the hearing, or they were not able to properly present their case. A rehearing may also be granted where there is new evidence that was not reasonably available at the first hearing if it could have affected the outcome.

7. The District Court has held that if the Tribunal was simply wrong in its findings of fact, or its application of the law, this is not sufficient to establish a miscarriage of justice: a rehearing is not an alternative to an appeal. Furthermore, a rehearing will not be granted just because a party is unhappy with the decision, or to give them a second opportunity to present their case.

Decision

8. The tenant has not appeared. The notices of hearing sent to both parties for this and the previous hearing clearly provided a video link. No other reasons have been advanced. I am not satisfied that a miscarriage of justice has occurred or may occur.

9. The tenant's application for rehearing is dismissed. The stay expired when the tenant failed to make rent payments.

G Barnett
21 August 2025

Please read carefully:

Visit justice.govt.nz/tribunals/tenancy/rehearings-appeals for more information on rehearings and appeals.

Rehearings

You can apply for a rehearing if you believe that a substantial wrong or miscarriage of justice has happened. For example:

- you did not get the letter telling you the date of the hearing, **or**
- the adjudicator improperly admitted or rejected evidence, **or**
- new evidence, relating to the original application, has become available.

You must give reasons and evidence to support your application for a rehearing.
A rehearing will not be granted just because you disagree with the decision.
You must apply within five working days of the decision using the Application for Rehearing form: justice.govt.nz/assets/Documents/Forms/TT-Application-for-rehearing.pdf

Right of Appeal

Both the landlord and the tenant can file an appeal. You should file your appeal at the District Court where the original hearing took place. The cost for an appeal is $260. You must apply within 10 working days after the decision is issued using this Appeal to the District Court form: justice.govt.nz/tribunals/tenancy/rehearings-appeals

Grounds for an appeal

You can appeal if you think the decision was wrong, but not because you don't like the decision. For some cases, there'll be no right to appeal. For example, you can't appeal:

- against an interim order
- a final order, or the failure to make an order, where the amount in dispute on appeal is less than $1000.
- a final order to undertake work, or the failure to make an order, where the value of the work in dispute on appeal is less than $1000.

Enforcement

Where the Tribunal made an order about money or property this is called a **civil debt**. The Ministry of Justice Collections Team can assist with enforcing civil debt. You can contact the collections team on **0800 233 222** or go to justice.govt.nz/fines/civil_debt for forms and information.

Notice to a party ordered to pay money or vacate premises, etc.

Failure to comply with any order may result in substantial additional costs for enforcement. It may also involve being ordered to appear in the District Court for an examination of your means or seizure of your property.

If you require further help or information regarding this matter, visit tenancy.govt.nz/disputes/enforcing-decisions or phone Tenancy Services on 0800 836 262.

Mēna ka hiahia koe ki ētahi atu awhina, kōrero ranei mo tēnei take, haere ki tenei ipurangi tenancy.govt.nz/disputes/enforcing-decisions, waea atu ki Ratonga Takirua ma runga 0800 836 262 ranei.

A manaomia nisi faamatalaga poo se fesoasoani, e uiga i lau mataupu, asiasi ifo le matou aupega tafailagi : tenancy.govt.nz/disputes/enforcing-decisions, pe fesootai mai le Tenancy Services i le numera 0800 836 262.