[2025] NZTT 5204271

TENANCY TRIBUNAL AT [Event location suppressed]

APPLICANT:	[The applicant/s] Landlord
RESPONDENT:	Neil (Raveneel) Chand Tenant
TENANCY ADDRESS:	[Tenancy address suppressed]

ORDER

1. The Tribunal orders suppression of the landlord's name and identifying details.
2. The landlord's application for rehearing is declined.
3. The stay of proceedings is lifted.

Reasons:

1. The landlord attended the remote hearing.
2. The tenant did not connect to the MS Teams hearing.
3. The tenant was telephoned on the phone number provided but the phone call went unanswered. I am satisfied the tenant was properly served with notice of the hearing by email to his email address for service. The hearing proceeded in his absence.
4. The landlord has applied for a rehearing in respect of the hearing and order made on 16 July 2025.

RELEVANT LAW - REHEARINGS

5. The relevant law that applies is the Residential Tenancies Act 1986 (RTA)
6. It is the usual practice of the Tenancy Tribunal that the application for rehearing is normally considered by the original adjudicator, being the adjudicator who made the decision which is sought to be reheard. I note that approach has

been supported by the District Court. In the decision of *Goston v Jamieson*[1], the District Court confirmed that:

- It is nothing extraordinary (indeed it is perfectly ordinary) for an adjudicator or Judge to hear a rehearing application in respect of a decision he or she has earlier given.
- It would be a mistake for a disappointed party to conclude that because a decision gives precedence to the points made by, and the evidence of, the successful party, their own points and evidence have been ignored. Any adjudicator or Judge has to make decisions as to what is persuasively relevant. It is a virtual inevitability that the content of his or her decision or judgment will show an emphasis accordingly.

7. Similarly in the District Court decision of *Dennis Fetherston & Anna Fetherston v Yunji Lee*[2], the Court observed that:

> Adjudicator who hears the case initially, entitled to hear any rehearing application. It would be "normal practice" for an adjudicator to do so.

8. The RTA states the Tribunal has the power to order a rehearing of the whole or any part of the proceedings on the grounds that a substantial wrong or miscarriage of justice has or may have occurred or is likely to occur.[3]
9. 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.
10. 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.[4]
11. The applicant need not establish an actual miscarriage of justice or substantial wrong, only that it may have occurred. However, in the District Court Judgment of *Wellington City Council v McMillan*[5] Judge Tuohy held that the statutory language set a high standard, and said that:

> [18] By contrast, by virtue of the specific terms of s 105, an application for rehearing can only succeed if the applicant shows that a substantial wrong or miscarriage of justice has or may have occurred or is likely to have occurred. These are strong

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[1] *Goston v Jamieson* [2001] DCR 361 at [84]
[2] *Dennis Fetherston & Anna Fetherston v Yunji Lee* DC North Shore, CIV-2012-044-001127, 7 May 2013.
[3] See s 105 of the RTA.
[4] *Yogeswaran v Doubletrees Properties Ltd* [2021] NZDC 15704
[5] *Wellington City Council v McMillan* [2003] DCR 50.

> words which set a high standard. They most obviously apply, as the adjudicator pointed out, to cases of procedural error eg a hearing which takes place in the absence of a party who has not been given notice of it; the improper admission or rejection of evidence; misconduct by the adjudicator or by one of the parties or a witness. The words may also encompass the discovery of new and important evidence not previously available.
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> [19] In my view, however, the words do not cover a complaint that the Tribunal was merely mistaken or wrong in its findings of fact or in its application of the law. There are two reasons for this. First the strength of the language in s 105 is such that something more than a mere wrong decision must be shown. The section does not speak of a decision being wrong, but of a substantial wrong or miscarriage of justice occurring. This implies obvious injustice, not merely an erroneous decision.
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> [20] Secondly, if a mere erroneous decision is enough, whether the error is factual or legal or both, it would enable parties to in effect appeal any decision twice: once to the very Tribunal which made it by way of an application for rehearing, and then again to the District Court against the grant or refusal of the application for rehearing. Not only does that offend the general hierarchical nature of the appeal system, it would also make the time limit for filing notice of appeal against an original decision nugatory."

12. As noted in the District Court appeal of *Loh v Puri* [6] :

> Rehearing's are about challenges to processes and procedures and are not about what the adjudicator found or the decisions the adjudicator made.

13. 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.

14. In *Jemma Trust v Rutherford*[7] the District Court quoted an extract from the Court of Appeal outlining the relevant considerations:

> The principles upon which further evidence is admitted are designed to balance the interests of the person seeking to adduce such evidence on the one hand with the interests of the opposite party is on the other. They are also designed to reflect the public interest in ensuring, so far as is possible, that parties put up their best case at trial. Any other

[6] *Loh v Puri* [2019] NZDC 1993 Judge Christiansen.
[7] *Jemma Trust v Rutherford* (DC North Shore, CIV-2009-044-2056, 11 December 1999).

approach would be very wasteful of public resources. The conventional requirements are that the further evidence must be fresh, it must be credible and it must be cogent. Evidence is not regarded as fresh if it could with reasonable diligence have been produced at the trial....While the absence of freshness is not an absolute disqualification, the criteria for admission in such circumstances must be very strict. In our view, when the evidence is not fresh it should not be admitted unless the circumstances are exceptional and the grounds compelling.

15. The High Court in *Angelo v Lehr*[8] confirmed that it was not a miscarriage of justice to decline a rehearing just because evidence was not considered at the original hearing, when that evidence could have been produced at the original hearing.

THIS CASE

16. The first hearing of this matter was held remotely on 21 May 2025.

17. On 21 May 2024 I made an order for rent arrears and adjourned the hearing. As part of the Adjournment Order I said:

> *5. The landlord is to provide water rates invoices and a schedule of the amounts claimed for the water rates.*

18. In the reasons I said:

> *Adjournment*
>
> *8. The landlord has applied for water rates and the bond. The hearing is adjourned as the landlord needs to provide invoices and set out what is claimed for water rates.*
>
> *9. The landlord is also to provide the relevant Bond number to tenancy services.*

19. On 16 July 2026 the second hearing in relation to this claim was held remotely. Following this hearing the Tribunal made an order for water rates and incorporated the earlier order made on 21 May 2025 which related to rent arrears and the filing fee. The landlord had claimed $3,692.81 for water rates however only $86.11 was ordered (supported by a invoice). I said:

> The balance of the claim for water rates is dismissed as I am not satisfied that the landlord has provided sufficient evidence of the water rates payable by the tenant, by way of invoices...

20. On 20 July 2025, the landlord applied for a rehearing. The landlord sent the application to the no-reply-dispute@tenancy.govt.nz . This is an email address by which Tribunal orders are released but the email specifically says: Please do

[8] *Angelo v Lehr* [2022] NZHC 3033

not reply to this email. In any event the application was subsequently received and processed on 8 August 2025

21. On 8 August 2025 the Tribunal directed a hearing be scheduled to determine whether a rehearing should be granted.

22. The grounds for the rehearing set out in the application form were:

> I was asked to provide an excel spread sheet for the water bill which the tenant had not paid for over a year. The adjuror said at initial hearing that “you will need to make a spread sheet to show how much the tenant owes” I have made this excel and attached the file. Now I am told that the individual water bill is required. This is absurd that I will need incur and pay for someone else’s 3000$ worth of water bill from this lack of communication.
>
> Can you please reconsider this situation or at least make it clear what documentation is required.

23. The application for a rehearing was scheduled for consideration on 11 September 2025.

24. The morning of the hearing, 11 September 2025, the landlord filed water rates invoices, the bond number and an additional claim for rent arrears.

25. The landlord said he seeks a rehearing as he says he had some difficulty in contacting Tenancy Services to identify the bond number for the last hearing. I note that it was approximately two months between the first hearing and the second hearing. The landlord has since been able to identify the bond number. I consider the landlord had sufficient and reasonable time to contact the Bond Centre and obtained the bond number, which he was able to provide at the second hearing.

26. I have reviewed the transcript from the hearing of 21 May 2025, and I advised the landlord to provide a statement with the water, the wastewater, the fixed fees and the debt collection in a spread sheet and provide that with the invoices for the next hearing. The landlord was also advised to get legal advice in respect of his claim.

27. At this hearing the landlord said he was confused about what to provide and believed the final water rates invoice would be sufficient. He acknowledged being disorganised and being busy with his study.

28. The District Court in *Kaipo v Clarke & McCarthy* (DC) TT233/02, has said: … “[L]ike anyone who brings an application before a Tribunal or Court, it is incumbent upon the applicant to provide the evidence necessary to prove the case. If the applicant fails to do that, then their application will be dismissed whether it has merit or not because it is up to the applicant to provide the

necessary evidence. ***It is not up to the other parties, and it is certainly not up to the Tribunal to extract evidence."***

29. In addition, the landlord now seeks additional rent arrears. I have indicated that is a new claim for which the landlord may make a further application and it will be assessed on its merits.

30. The Tribunal set out what was required for the second hearing in terms of evidence to be filed and the landlord did not attend to the filing of the necessary evidence. There is a principle of finality in litigation which means that the parties must bring their best case on the day of the hearing, because the order of the Tribunal or Court will be final and end the proceeding. The Tribunal is not required to extract evidence from the landlord, however in this case I consider clear direction was given to the landlord as to what should he file before the final hearing (in particularly, water rates invoices), and he did not do so. Given the landlord would have had the water rates invoices is order to ascertain how much the tenant owed for water rates, I consider this evidence could with reasonable diligence have been produced at the final hearing.

31. While I recognise the landlord will be unhappy with the outcome of the original hearing, that is the outcome.

32. I consider the landlord has not provided grounds to support a rehearing.

33. I do not consider a miscarriage of justice has or may have occurred.

34. For the reasons set out above, the application for a rehearing is declined.

SUPPRESSION

35. The Tribunal as previously made an order suppressing the landlord's name and identifying details under this application number. Suppression must continue apply to this order as is has the same application number and publication in respect of one order could lead to breach of suppression.

N Bradley
12 September 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.