[2025] NZTT 5139833

TENANCY TRIBUNAL AT [Event location suppressed]

APPLICANT: [The applicant/s]

Landlord

RESPONDENT: Erosha Sajeewani Silva

Tenant

TENANCY ADDRESS: [Tenancy address suppressed]

ORDER

1. The Tribunal orders suppression of the landlord's name and identifying details.
2. The tenant's application for rehearing is dismissed.

Reasons:

1. The tenant, Ms Silva, attended the hearing which was held by way of teleconference. The landlord was phoned on the number provided but the calls went to voicemail.
2. On 24 February 2025, the Tribunal made an order terminating the tenancy and an order that Ms Silva pay the sum of $4,501.60, being rent arrears to 28 February 2025, water rates, and the Tribunal application fee, less the bond of $556.97.
3. On 26 June 2025, Ms Silva applied for a rehearing on the grounds that she was not given the opportunity to attend the hearing. She said that she did not receive the phone call for the hearing, despite calls being made to the number she had given to the Tribunal. This was Ms Silva's second rehearing application on similar grounds (the first was filed on 5 March). That application was dismissed because Ms Silva did not attend the rehearing hearing at the scheduled time. In her 26 June rehearing application she said that received a missed call for the rehearing hearing and tried to phone the number back but was unable to connect with the hearing.

4. 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”.

5. 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.

6. 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.

Has a substantial wrong or miscarriage of justice occurred?

7. For the following reasons Ms Silva has failed to establish the grounds for a rehearing.

8. Ms Silva has now vacated the premises and she does not dispute that she owes the rent and the water rates claimed by the landlord. However, she said that she has claims against the landlord that she wants to have heard. As explained to her at the hearing, this is not sufficient to support a rehearing application, but she is free to file her own application in the Tribunal if she wishes to pursue her claims against the landlord.

9. Ms Silva’s rehearing application is therefore dismissed.

10. The landlord’s name and identifying details were suppressed under the 28 February order. The landlord’s name and identifying details are therefore also suppressed under this order.

R Merrett
15 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.