[2026] NZTT 5539543

TENANCY TRIBUNAL AT REMOTE LOCATION | TE TARAIPIUNARA RETIHANGA

APPLICANT:	Barfoot & Thompson Limited As Agent For Dhiren Chand And Uma Chand Landlord
RESPONDENT:	Sean Singh Tenant
TENANCY ADDRESS:	95A Hillside Road, Papatoetoe, Auckland 2025

ORDER

1. The application for rehearing is dismissed.

Reasons:

1. Both parties attended the hearing.
2. On 3 Augus 2026 the Tribunal made an order for termination of the tenancy.
3. He has applied for a rehearing on the grounds that medical issues preventing him from attending the hearing.
4. He sent to the Tribunal on the day of the hearing. In that email, he said:

> Hi team,
> This is just to acknowledge receipt of your email unfortunately I wont be able to attend today's case I will need to request a reschedule for this case as im going thru couple of test today and tomorrow for kidney transplant as im a kidney failure patient please feel free to contact via email if you have any questions or concerns
> Thanks
>
> Sean singh

5. He did not supply any evidence of his medical condition in that email.

6. He does not dispute liability for the rent arrears, which stand at $4680, as at today. The landlord has previously offered to find him alternative premises. He says he has a number of boxes of dialysis and has to undergo dialysis every day in the evening.

Relevant Law

7. Decisions issued by the Tribunal are binding on both parties, however the RTA, which provides the procedural requirements for the operation of the Tenancy Tribunal acting within its Unit Titles Act jurisdiction, allows either party to apply for a rehearing. In particular, s 105 of the RTA relates to rehearings. Subsection 1 confirms that:

> The Tribunal shall in all proceedings have the power to order a rehearing of the whole or any part of the proceedings on the ground that a substantial wrong or miscarriage of justice has or may have occurred or is likely to occur.

8. 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.

9. 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 all over again to another adjudicator.

10. 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* [2003] DCR 50, Judge Tuohy held that the statutory language set a high standard, and that:

> [18] … They most obviously apply … 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 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.

11. As noted by Judge Christiansen in the District Court appeal of *Loh v Puri* [2019] NZDC 1993:

> *In this Court's view the Tribunal's reasons for refusing a rehearing are correct. Rehearings are about challenges to processes and procedures and are not about what the adjudicator found or the decisions the adjudicator made.*

12. Added to the foregoing law, it is important to observe that the Tenancy Tribunal is required to deliver expeditious outcomes. Section 85 of the RTA provides:

> 85 Manner in which jurisdiction is to be exercised
>
> (1) Subject to the provisions of this Act and of any regulations made under this Act, the Tribunal shall exercise its jurisdiction in a manner that is most likely to ensure the fair and expeditious resolution of disputes between landlords and tenants of residential premises to which this Act applies.
>
> (2) The Tribunal shall determine each dispute according to the general principles of the law relating to the matter and the substantial merits and justice of the case, but shall not be bound to give effect to strict legal rights or obligations or to legal forms or technicalities.

Analysis

13. The Tribunal delivers expeditious outcomes. When parties who are duly served with the notice of hearing do not attend, it wastes the resources of the Tribunal, as well as those of the other party.

14. In this case, the arrears are substantial and the landlord is wanting termination.

15. The tenant got the notice of hearing in July and ought to have advised the Tribunal at that stage that he had an appointment which conflicted but did not do so.

16. He did not contact the Tribunal at all until the day of the hearing and even then, he supplied nothing at all corroborating his medical condition or the appointment he claims he had to attend.

17. The tenant has still supplied no medical evidence at all in support of his condition. He claims he has kidney failure and must have testing and appointments, which are sometimes sudden. He told me today he was up to date with the payment of rent but this is a different story from what the landlord is saying. The landlord has pointed out that a condition of the stay was that the tenant continue to pay rent on time. The landlord says the tenant has not done that.

18. There is nothing at all before me corroborating or verifying the tenant's medical condition and the reason why it prevented him from attending a remote hearing, as he has done today.

19. I consider that nothing has “gone wrong” with the hearing, in terms of the principles I have set out above. There is nothing that can give rise to the requisite possibility of a miscarriage of justice or substantial wrong.

20. I therefore dismiss the application

D Watson
24 August 2026

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.