

TENANCY TRIBUNAL AT Manukau

APPLICANT: Oscar Warren February, Keyah-Leigh February
Tenant

RESPONDENT: Coe Property Management Limited
Landlord

TENANCY ADDRESS: 23 Seneca Court, Golflands, Auckland 2013

ORDER

1. Coe Property Management Limited must pay Oscar Warren February and Keyah-Leigh February the sum of \$4,160.44 immediately, calculated as shown in the table below:

Description	Landlord	Tenant
Compensation: Bond and rent in advance		\$4,140.00
Filing fee reimbursement		\$20.44
Total award		\$4,160.44
Total payable by Landlord to Tenant		\$4,160.44

Reasons:

1. The tenant attended the hearing.
2. Mrs February spoke to Veronica Coe, of Coe Property Management, via Facebook in late January 2019 about an advertised rental property at 23 Seneca Court. Ms Coe provided Mrs February with an application form and a letter to take to WINZ. The letter, dated 31 January 2019, provided Coe Property Management's bank account details and gave details of the money to be paid for bond and rent in advance.

3. Mrs February took the letter to WINZ. While there, she spoke to Ms Coe via Facebook, who confirmed that the property would be “on hold” on payment of the bond.
4. On 31 January 2019, WINZ paid the bond of \$2,760.00 and 2 weeks’ rent of \$1,380.00 (total \$4,140.00) to Coe Property Management. The money was paid to secure the property for Mr and Mrs February.
5. Mrs February became concerned when Ms Coe initially did not respond to requests for confirmation of the move-in date. On 12 February 2019, in a telephone conversation, Ms Coe said she would call about meeting at the property tomorrow with the owner. Ms Coe did not respond to a text message on 13 February 2019 and in the late afternoon Mrs February went to WINZ to speak to her case worker.
6. The case worker rang Ms Mayble Coe of Coe Property Management. Ms Coe said that the tenant’s application had been rejected by the owner 2 weeks previously due to bad credit, and that Coe Property Management were looking for another property for the tenant.
7. Mr and Mrs February have not been provided with a tenancy agreement and were unable to move into the property. Their evidence is that Coe Property Management was not authorised to act for the owner. Coe Property Management did not find an alternative rental property, and Mr and Mrs February had to find alternative accommodation themselves. The money paid to WINZ has not been refunded despite the tenancy not proceeding.
8. In my view, there has been a total failure of consideration. Mr and Mrs February paid bond and rent money for nothing in return. The payment did not secure the property as had been represented. The bond money and advance payment of rent must be refunded to the tenant immediately.
9. Mr and Mrs February also claim compensation for mental distress, exemplary damages for misleading conduct and failure to lodge the bond, and costs associated with travel to find another place to live. I have reserved my decision in respect of those matters and will provide the Tribunal’s decision as soon as possible. Mr and Mrs February have succeeded in obtaining a refund of monies paid and it is appropriate to award the filing fee.



M Edison
26 April 2019

Please read carefully:

SHOULD YOU REQUIRE ANY HELP OR INFORMATION REGARDING THIS MATTER PLEASE CONTACT **TENANCY SERVICES 0800 836 262**.

MEHEMA HE PĀTAI TĀU E PĀ ANA KI TENEI TAKE, PĀTAI ATU KI TE TARI **TENANCY SERVICES 0800 836 262**.

AFAI E TE MANA'OMIA SE FESOASOANI E UIGA I LENEI MATAUPU FA'AMOLEMOLE IA FA'AFESO'OTAI'I LOA LE OFISA O LE **TENANCY SERVICES 0800 836 262**.

Rehearings:

You may make an application to the Tenancy Tribunal for a rehearing. Such an application must be made within five working days of the order and must be lodged at the Court where the dispute was heard.

The **only** ground for a rehearing of an application is that a substantial wrong or miscarriage of justice has or may have occurred or is likely to occur. Being unhappy or dissatisfied with the decision is not a ground for a rehearing. (See 'Right of Appeal' below).

Right of Appeal:

If you are dissatisfied with the decision of the Tenancy Tribunal, you may appeal to the District Court. You only have 10 working days after the date of the decision to lodge a notice of appeal.

However, you may **not** appeal to the District Court:

1. Against an interim order made by the Tribunal.
2. Against an order, or the failure to make an order, for the payment of money where the amount that would be in dispute on appeal is less than \$1,000.
3. Against a work order, or the failure to make a work order, where the value of the work that would be in dispute on appeal is less than \$1,000.

There is a \$200.00 filing fee payable at the time of filing the appeal.

Enforcement:

Where the Tribunal made an order that needs to be enforced then the party seeking enforcement should contact the Collections Office of the District Court on **0800 233 222** or go to www.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.