

TENANCY TRIBUNAL AT Auckland

APPLICANT: Kelly Alexandra Roe
Tenant

RESPONDENT: Gulf View Property Management Limited And Mike Cotton
Landlord

TENANCY ADDRESS: Unit/Flat Flat 16, 5 Park Road, Grafton, Auckland 1023

ORDER

1. The application for rehearing is granted only in respect of the tenant's application under s.45 Residential Tenancies Act 1986 as to the safety of the heater.
2. The parties will be notified by Tenancy Services of the time, date, and place of the next hearing.
3. A different adjudicator will hear the claim.
4. If either party intends to produce any additional documents at the next hearing, they should send two copies to the Tribunal no later than 10 days after the date of this order, for service to the other party.
5. A stay of proceedings is granted until the date of the rehearing.

Reasons:

1. Gulf View Property Management Ltd has applied for a rehearing of the Tribunal order dated as they have evidence to establish the heater was installed correctly in July 2019 but they were unable to present this evidence at the last hearing.

2. For the reasons set out below, I am satisfied that a miscarriage of justice may have occurred and a rehearing is granted. See section 105 Residential Tenancies Act 1986.
3. I am satisfied that new evidence may affect the outcome of the decision.



J Robson
11 January 2021

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 \$200. 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 for the payment of less than \$1000
- a final order to undertake work worth 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.