

**TENANCY TRIBUNAL AT North Shore**

APPLICANT: Natalie Heywood  
Tenant

RESPONDENT: Karen Bartlett  
Landlord

TENANCY ADDRESS: 124 Mahurangi East Road, Snells Beach, Snells Beach  
0920

**ORDER**

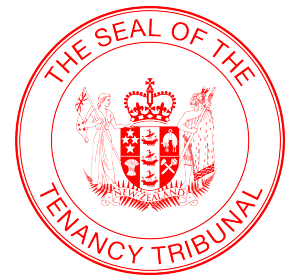
1. The application for rehearing is granted.
2. The parties will be notified by Tenancy Services of the time, date, and place of the next hearing.
3. A different adjudicator will hear the claim.
4. If either party intends to produce any additional documents at the next hearing, they should send two copies to the Tribunal no later than 10 days after the date of this order, for service to the other party.

**Reasons:**

1. Both parties attended the hearing.
2. On 19 December 2019 the Tribunal made a finding that the Tribunal had jurisdiction to consider the claim and cross claim filed by the parties. Natalie Heywood rented a caravan situated in an orchard on a rural property owned by Karen Bartlett. Karen Bartlett lives in the main house (130 years old) with her children and shares the main bathroom and laundry accessible from the rear porch with Ms Heywood and another boarder. The previous order addressed the question of whether Natalie Heywood was a tenant or boarder.

3. Karen Bartlett has applied for a rehearing of the Tribunal order dated 19 December 2019 claiming:
  - (a) The adjudicator improperly admitted or rejected evidence;
  - (b) The respondent was not given sufficient time to explain various aspects of the living arrangement and to give the appropriate evidence needed by the tribunal;
  - (c) There are several factual inaccuracies in respect of the parking and use of the bathroom by family members and these are important aspects of the case;
  - (d) The respondent provided eggs, oranges, lemons and greens from the garden, and purchased soap and laundry powder for Ms Heywood;
  - (e) The applicant gave false evidence about the living arrangement at the hearing;
  - (f) The respondent provided an agreement headed up "Caravan Board conditions" setting out detailed rules for a boarder and the applicant agreed in a text message to the terms of this document;
  - (g) There was no written tenancy agreement signed by the parties;
  - (h) New evidence in the form of text messages between the parties and letters from her children and a boarder relating to the original application has become available and was not able to be presented at the hearing.
  - (i) The caravan cannot be occupied as a separate residential unit under the Rodney District Council as it cannot be occupied for longer than 50 continuous days. The caravan, says the respondent, is not self-contained and had to operate under the law as a boarding arrangement with the family.
4. The applicant Natalie Heywood says all evidence was provided at the first hearing in respect of the living arrangement. She confirmed that the caravan had a microwave, kettle, toaster, fridge and benchtop stove. The benchtop stove was returned as she did not require this appliance. She denies being offered food or produce by the respondent.
5. The Tribunal has the power to order a rehearing of the whole or part of the proceedings on the grounds of a substantial wrong or miscarriage of justice under section 105 Residential Tenancies Act 1986.
6. I have carefully considered all the submissions from both parties. I have reached the view that there is some additional evidence that was not available at the first hearing that may make a difference on the question of jurisdiction. These are some text messages between the parties about the boarder agreement, letters from the respondent's children about using the porch bathroom and a letter from a boarder.

7. In my decision, I advised the parties that there were elements of a boarder situation and elements of a tenancy in this case. In reaching a finding on jurisdiction the details relating to the living arrangement are important considerations. I accept that some details explained today were not properly presented or not given sufficient weight at the first hearing.
8. For these reasons, I am satisfied that a substantial wrong on the question of jurisdiction may have occurred and a rehearing should be granted. See section 105 Residential Tenancies Act 1986.
9. The matter is to be put before a new adjudicator.



B Harvey  
11 March 2020

## **Please read carefully:**

Visit [justice.govt.nz/tribunals/tenancy/rehearings-appeals](https://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](https://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](https://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](https://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.

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If you require further help or information regarding this matter, visit [tenancy.govt.nz/disputes/enforcing-decisions](https://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](https://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](https://tenancy.govt.nz/disputes/enforcing-decisions), pe fesoatai mai le Tenancy Services i le numera 0800 836 262.