

**IN THE DISTRICT COURT
AT AUCKLAND**

**I TE KŌTI-Ā-ROHE
KI TĀMAKI MAKĀURAU**

**CIV-2019-004-000225
[2020] NZDC 434**

BETWEEN

KEON HO LEE
Appellant

AND

KIRTIKA GOUNDER
ARSHDEEP SINGH
Respondents

Hearing: 15 January 2020

Appearances: No appearance by or for the Appellant
Respondent Gounder appears in Person
No appearance by or for the Respondent Singh

Judgment: 15 January 2020

ORAL JUDGMENT OF JUDGE G M HARRISON

[1] This is an appeal by the landlord of a property situated at flat 4/62A Spring Street, Onehunga. The appeal is from a decision of the Tenancy Tribunal at Auckland of 31 October 2018.

[2] Neither the landlord nor his agent appear today to support the appeal and the appeal must be dismissed for that reason.

[3] There is a further reason why the appeal cannot succeed. The substantive decision in this matter was issued on 27 September 2018. That decision granted \$4200 to Ms Gounder and Mr Singh as tenants of the property, as compensation for mould that the landlord had failed to remove.

[4] The landlord applied for a rehearing which was dismissed on 31 October 2018. The notice of appeal challenges the decision of 31 October and can only do that because the provisions of s 117 Residential Tenancies Act 1986 requires that any appeal against a decision of the Tenancy Tribunal, whether a substantive decision or a decision in respect of an application for a rehearing, must be brought within a period of 10 working days.

[5] There is no appeal against the substantive decision filed within that period. Consequently, the appeal can only relate to the refusal of the Tribunal to grant a rehearing. However, the notice of appeal addresses essentially the substantive decision of 27 September which, for the reasons I have given, it cannot do. No submissions are raised in respect of the decision of the Tribunal to dismiss the application for a rehearing.

[6] As a consequence, firstly because of the non-appearance of the landlord but secondly that the appeal as filed cannot address the substantive decision of 27 September because it is out of time, the appeal is dismissed and the order of the Tribunal must now be honoured by payment of the amount awarded to Ms Gounder and Mr Singh.

G M Harrison
District Court Judge