

**I TE KOOTI WHENUA MĀORI O AOTEAROA
I TE ROHE O TE TAITOKERAU**

*In the Māori Land Court of New Zealand
Taitokerau District*

AP-20260000001953

WĀHANGA
Under

Section 19, Te Ture Whenua Māori Act 1993

MŌ TE TAKE
In the matter of

DP17384 – 1 Beatrix Street, Avondale, Auckland

I WAENGA I A
Between

JOHNATHAN ALBERT
Te kaitono
Applicant

ME
And

Kainga Ora Homes and Communities
Ngā kaiurupare
Respondents

Nohoanga: On the papers
Hearing

Whakataunga: 25 February 2026
Judgment date

TE WHAKATAUNGA Ā KAIWHAKAWĀ M P ARMSTRONG
Judgment of Judge M P Armstrong

Introduction

[1] Ellen Albert held a residential tenancy at 1 Beatrix Street, Avondale in Auckland. That tenancy was granted by Kainga Ora Homes and Communities.

[2] Sadly, Ms Albert passed away on 7 October 2025. It appears that her whānau remained in the property. Kainga Ora took proceedings in the Tenancy Tribunal seeking to:

- (a) Terminate the tenancy held by Ms Albert’s estate; and
- (b) Obtain possession of the property.

[3] Ms Albert’s son, Jonathon Albert, appeared before the Tenancy Tribunal. He opposed Kainga Ora’s application and brought his own claim seeking compensation on behalf of his mother’s estate.

[4] On 13 February 2026, the Tenancy Tribunal terminated the tenancy and granted possession of the property to Kainga Ora. Mr Albert’s claim for compensation was dismissed.

[5] Mr Albert has now filed applications in this Court seeking:

- (a) To determine that this land is Māori customary land; and
- (b) An “urgent injunction to stop the tenancy tribunal order”¹

[6] In this judgment, I determine whether to grant the urgent injunction. The application to determine the status of the land will be referred to the presiding judge for further directions.

¹ Affidavit of Jonathon Albert, 16 February 2026, para 5.

Why is this application being considered urgently?

[7] The Tenancy Tribunal ordered that Kainga Ora takes possession of the land on 27 February 2026. Mr Albert filed the injunction application on 16 February 2026, but it was not referred to me until 24 February 2026.

[8] Per rule 9.6(3) of the Māori Land Court Rules 2011, I am determining the injunction application without notice in the Pānui, without notice to any party, and without any appearance by the applicant. I do so as:

- (a) This application is urgent. The order for possession takes effect in two days;
- (b) There is insufficient time to hear from the parties or to convene a hearing; and
- (c) There is sufficient information provided by the applicant and the Court registry to determine the application on the papers.

What legal principles apply?

[9] Mr Albert seeks an urgent interim injunction to prevent the Tenancy Tribunal order from being enforced pending his application to determine the status of this land. To obtain an interim injunction, Mr Albert must demonstrate that:

- (a) There is a serious question to be tried;
- (b) The balance of convenience supports an injunction; and
- (c) The interests of justice support an injunction.

Do I have jurisdiction to grant the order sought?

[10] Mr Albert seeks an injunction preventing the Tenancy Tribunal order from being enforced. I do not have jurisdiction to grant such an order.

[11] A lot of the material Mr Albert has filed is unintelligible. The applications provide few particulars. In an affidavit sworn 16 February 2026, Mr Albert says:

I apply to the Māori Land Court to appeal the order of the tenancy tribunal 13th February 2026

[12] If Mr Albert seeks to appeal the Tenancy Tribunal's decision, he has to file that appeal in the District Court not this Court. I have no jurisdiction to hear an appeal against the Tribunal's decision. Nor do I have jurisdiction to grant an injunction restraining the enforcement of an order from another jurisdiction. Restraining the enforcement of an order requires a stay. I can only grant a stay concerning proceedings in this Court not other jurisdictions.

[13] Mr Albert argues that in *Rameka – Te Tii B3*,² the Māori Appellate Court upheld an appeal against the Tenancy Tribunal. That is not correct. In that case, the Appellate Court dismissed Mr Rameka's appeal which advanced very similar arguments to those raised by Mr Albert here.

[14] The injunction application must fail on this basis alone.

Is there a serious question to be tried?

[15] To obtain an interim injunction, Mr Albert must demonstrate that his substantive application is tenable in fact and law. It is not.

[16] Ms Albert seeks to determine that this land is Māori customary land. The certificate of title names Housing New Zealand Limited as the registered proprietor. The interests registered on the title indicate that this is either General land or Crown land.

[17] I am not determining the substantive application at this interlocutory stage. I am simply assessing whether there is sufficient merit in that application to justify an urgent interim injunction. There isn't.

What about the balance of convenience and the interests of justice?

[18] Given my findings on the questions of jurisdiction and whether there is a serious question, I do not have to consider the remaining elements for interlocutory relief. Suffice to say there are no other equitable considerations in this case to justify an urgent injunction.

² *Rameka – Te Tii B3* (2025) 2025 Maori Appellate Court MB 384 - 400.

Decision

[19] Application AP 20260000001953 seeking an urgent interim injunction is dismissed.

[20] Application AP202500000015841 to determine the status of this land is referred to the presiding judge to issue further directions.

I whakapuaki i te 1:30pm i Whangarei, i te 25th o ngā rā o Pepuere i te tau 2026.
Pronounced at 1:30pm in Whangarei, on this 25th day of February 2026.

M P Armstrong
JUDGE