

IN THE COURT OF APPEAL OF NEW ZEALAND

**CA734/2009
[2010] NZCA 12**

BETWEEN ROBYN WINTHER, HUIA TAMAKA,
BILLY TAYLOR
Appellants

AND HOUSING NEW ZEALAND
CORPORATION
Respondent

Hearing: 16 February 2010

Court: O'Regan, Arnold and Baragwanath JJ

Counsel: E A Hall for Appellants
S N Haszard and C P Paterson for Respondent

Judgment: 18 February 2010 at 3pm

JUDGMENT OF THE COURT

A Special leave is granted to appeal against the judgment of the High Court of 9 October 2009.

B The approved questions are:

(a) If the decision of Housing New Zealand Corporation to issue a 90 day notice under s 51(1)(d) of the Residential Tenancy Act 1986 to terminate a tenancy agreement is based on unlawful discrimination against the tenant, is the notice legally effective?

(b) Does the Tenancy Tribunal or the District Court or High Court on appeal have jurisdiction to examine the reasons for the issue of a 90 day

notice by Housing New Zealand Corporation where it is alleged that the reason for issue of the notice was unlawful discrimination?

(c) If the reason for issue of the 90 day notice by the Housing Corporation includes unlawful discrimination, does the Tribunal or the District Court or the High Court on appeal have power to refuse to make a possession order based on the notice?

C The stay order made in the High Court remains in force.