

Missed lease renewal notices and relief under the Property Law Act

Creative Edge Food Company Ltd v Hunza Corporate Trustee Ltd [2026] NZHC 852

A recent High Court decision provides a clear reminder that commercial tenants may still obtain relief where a lease renewal notice is missed through genuine oversight. The case also illustrates how the courts continue to weigh prejudice in a practical, commercial way, particularly where a tenant's business would be severely affected by the loss of premises.

The decision will be of interest to both landlords and tenants operating under leases that include rights of renewal, especially where renewal dates are missed despite an otherwise sound tenancy history.

Background

Creative Edge Food Company Ltd operated a wholesale bakery from commercial premises in St Johns, Auckland. It leased the premises under a long term commercial lease that included multiple rights of renewal.

The lease required Creative Edge to give notice by 18 April 2025 if it wished to renew the lease for a further three year term starting on 18 July 2025.

Through genuine oversight, the tenant failed to give the renewal notice by the due date.

When the mistake was discovered, the landlord took the position that the lease had not been renewed. It issued a notice requiring Creative Edge to vacate the premises. As required by law, that notice also referred to the tenant's statutory right to apply to the court for relief.

Creative Edge applied to the High Court within the three month statutory period, seeking relief under the Property Law Act 2007. The landlord cross applied for possession of the premises.

Legal framework

Section 261 of the Property Law Act 2017 (PLA) allows a tenant to seek relief where a right of renewal is conditional and the condition, such as giving notice on time, has not been met.

If section 261 of the PLA applies, section 264 of the PLA then gives the Court a broad discretion to grant relief and impose conditions. That discretion is exercised by reference to established factors, including the tenant's conduct and the prejudice to each party.

The High Court's decision

The Court found that section 261 of the PLA clearly applied. The lease contained a conditional right of renewal, the condition was not met, and the tenant applied for relief within the required timeframe. The key issue then became whether relief should be granted.

Oversight, not strategy

The Court was satisfied that the failure to give notice was inadvertent. There was no suggestion that the tenant deliberately withheld notice to gain a commercial advantage or to test the market. That finding weighed strongly in favour of granting relief. The Court noted that relief is far less likely to be granted where a tenant's conduct appears tactical or calculated.

Tenant conduct

The landlord argued that the tenant was not a good tenant, relying on some late payment of outgoings. The Court rejected that argument. More than 90 percent of payments had been made on time. Some delays were linked to genuine disputes and invoicing errors by the landlord. Rent itself had been paid and there was no pattern of persistent or wilful default. Taken as a whole, the tenant was found to be a generally good tenant.

Missed lease renewal notices and relief under the Property Law Act (Continued)

Prejudice to the tenant

The Court placed significant weight on the prejudice the tenant would suffer if relief were refused. The bakery operated from specialised premises, the tenant had invested heavily in fit out and equipment, and faced real difficulty relocating. The Court accepted that refusal of relief could be business ending. That level of prejudice weighed heavily in favour of granting relief.

Prejudice to the landlord

The landlord relied on administrative inconvenience, planned maintenance works, and the loss of the opportunity to regain possession.

While these matters were acknowledged, the Court found they did not outweigh the tenant's position. Once business-ending prejudice to the tenant was established, these types of impacts were not compelling reasons to refuse relief.

Relief granted

The Court ordered that the lease be renewed for a further three year term from 18 July 2025. A condition was imposed to ensure the tenant did not benefit from the late notice. Any rent review following renewal was required to be backdated to the start of the renewed term.

With relief granted, the landlord's application for possession was dismissed.

Why this decision matters

This case reinforces that relief remains available where renewal notices are missed through genuine oversight. The discretion under the PLA continues to be applied in a practical, commercial way.

It also confirms that a tenant does not need a flawless payment record to qualify as a good tenant. Occasional delays will not necessarily defeat an application for relief, particularly where rent is paid and disputes are legitimate.

Most importantly, the decision highlights how decisive severe commercial prejudice can be. Once the Court accepts that refusal of relief could end a viable business, inconvenience or lost opportunity will rarely be enough for a landlord to oppose relief.

Practical takeaways

For tenants, the key lesson remains to diarise renewal dates carefully. Relief is available if a renewal notice is missed, but it is discretionary, can be stressful, and most likely expensive to obtain.

For landlords, the case is a reminder that strict contractual rights may be overridden where fairness and commercial reality favour the tenant.

Want to know more?

If you have any questions about lease renewals or relief under the PLA, please contact our specialist [Commercial Property team](#).