

TENANCY TRIBUNAL - [Event location suppressed]

APPLICANT: [The applicant/s]
Landlord

RESPONDENT: [The respondent/s]
Tenant

TENANCY ADDRESS: [Tenancy address suppressed]

ORDER

1. An application for suppression has been made in this case, and the Tribunal orders suppression of the names and identifying details of both parties.
2. [The tenant/s] must pay [The landlord/s] \$870.44 immediately, as calculated below:

Rent arrears to 15 September 2023 (consent)	\$850.00
Filing fee reimbursement	\$20.44
Amount owed by tenant to landlord	\$870.44

3. The application for compensation for damage is dismissed.
4. The application for termination of the tenancy is withdrawn.

Reasons:

1. Both parties attended the hearing. The landlord was represented by the property manager who manages the tenancy.

2. The landlord has applied for an order terminating the tenancy for continuing breaches by the tenant failing to pay rent when due, rent arrears and compensation for damage done to part of the neighbouring property owned by the same landlord.
3. The landlord did not pursue the application for termination today. I have recorded the withdrawal of that part of the application.

Rent arrears

4. The tenancy is a long tenancy by New Zealand standards; it began on 30 September 2017.
5. For most of the duration of the tenancy the rent has been paid on time or has been in credit.
6. The tenant has experienced some recent difficulties which have resulted in rent arrears. She is confident that she can continue to manage her weekly rent but cannot immediately meet her rent arrears.
7. The tenant accepted the amount of rent owing. I have made a rent arrears order by consent.
8. If the rent arrears are not paid, the tenant risks having the tenancy terminated should the landlord apply again.

Can the Tribunal award compensation for damage?

9. The landlord seeks compensation (the insurance excess and other costs amounting to \$1,189.50) as a result of a former friend of the tenant leaving the premises in his car and damaging the fence and wheelie bin of the neighbouring property, also owned by the same landlord.
10. Section 40(2)(a) of the Residential Tenancies Act 1986 (RTA) provides that the tenant shall not intentionally, or carelessly damage, or permit any other person to damage, the premises. *Premises* is defined in section 2 RTA to include any part of any premises.
11. Section 41 RTA sets out a tenant's responsibility for the actions of others. A tenant is responsible for any intentional or careless damage to the premises while the tenant is in the premises. There is a presumption that the tenant permitted the other person to be in the premises, although the tenant can rebut that presumption.
12. Here, the tenant did not damage the premises, nor did she permit her former friend to damage the premises. That person has caused damage to another property.

13. The fact that the other property is owned by the same landlord does not make this tenant liable. The damage was not done to the premises (the tenancy premises), it was done to another property.
14. The issue of liability for the damage done to the other property (even though owned by the same owner as the tenancy premises at issue here) is a civil dispute between the property owner and the person who caused the damage.
15. The Tribunal cannot make an order against this tenant for damage done by a third party to another property.
16. The application for compensation for damage is dismissed.

Result

17. The tenant will pay the landlord \$870.44 comprising rent arrears of \$850.00 and the Tribunal filing fee of \$20.44.
18. The application for compensation is dismissed.
19. The application for termination of the tenancy is withdrawn.

Name suppression

20. Both parties applied for a name suppression order. Each party has succeeded in part. There is no public interest in this order being published. The parties have had a long landlord/ tenant relationship, hopefully one that will continue. I have therefore made a name suppression order for both parties.

J Greene
15 September 2023

Please read carefully:

Visit 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

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

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 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.

If you require further help or information regarding this matter, visit 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, 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, pe fesootai mai le Tenancy Services i le numera 0800 836 262.