

**TENANCY TRIBUNAL - TOKOROA**

APPLICANT: Emma Louise Lewis  
Tenant

RESPONDENT: Blain Justin Allen  
Landlord

TENANCY ADDRESS: 35 Huratai Street, Koutu, Rotorua 3010

**ORDER**

1. No application for suppression has been made in this case and no suppression orders apply around publication of this decision.
2. Applications dismissed.

**Reasons:**

1. Both parties attended the hearing.
2. The Landlord applied for compensation following the end of the tenancy.
3. The Tenant has cross-applied for compensation also.

*Did the tenant comply with their obligations at the end of the tenancy?*

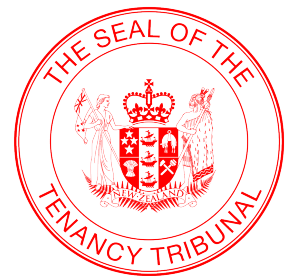
4. At the end of the tenancy the tenant must leave the premises reasonably clean and tidy, remove all rubbish, return all keys and security devices, and leave all chattels provided for their benefit: s 40(1)(e)(ii)-(v) Residential Tenancies Act 1986 (*the Act*).
5. The Landlord claims the Tenant did not leave the premises reasonably clean and tidy and did not remove all rubbish. More particularly, the Landlord says he inspected the premises after the Tenant moved out and found the following items left behind by her:
  - a. Beer, wine and bleach bottles

- b. Kiwifruit boxes
  - c. Pie packets and general rubbish
  - d. Missing curtain netting
  - e. Greenwaste scattered all over the property including rose cuttings and *things she has hacked at because she decided they needed to be hacked at.*
  - f. Dead rose bush
  - g. BBQ
  - h. Carpet
  - i. Couch
  - j. Table
  - k. A rainbow of paint and chalk on driveway concrete - *pretty much freshly chalked/painted.*
6. The Landlord claims time and costs on the following basis:
- a. Dump Fees of \$90 and approximately \$2,160 for three people working three, eight-hour days at \$30/hour:
    - i. Removing rubbish and cleaning filthy home;
    - ii. Removing vivid marks over my fireplace.
    - iii. Cleaning grubby doors throughout premises. Dirty hands.
    - iv. Cleaning bath.
7. The Landlord has very little evidence to back up his claims. One of the persons who allegedly helped him clean the premises is his cousin who attended the hearing to give evidence, not on the Landlord's behalf, but on behalf of the Tenant. Her evidence, as far as I deduced from her written statement, is she helped the Tenant clean the premises, and she and the Tenant had worked together to remove the Landlord's personal property from the premises, as required by a Work Order made by this Tribunal.
8. No pre-tenancy or post-tenancy reports have been provided by the Landlord. He says I can rely on his word, but I am not satisfied that I can. He has provided photographs of some of items he says the Tenant left behind, though the Tenant denied she left these items behind and indirectly questioned the evidential weight of the Landlord's photographs.
9. The Landlord's former property manager wrote a letter in support of the Tenant and made herself available for questioning by phone at the hearing. Her evidence in summary was as follows:
- a. The premises were checked after the Tenant had moved herself out.

- b. No knowledge of wine or beer bottles.
  - c. No ingoing inspection/condition report, she was not sure of condition of the property at the commencement of the tenancy, having been engaged in recent months.
  - d. Not aware of any handprints on the front door. (Walked around property outside.)
  - e. Tenant supplied her own curtain netting.
  - f. Some items left behind.
  - g. The premises were *very reasonably clean and tidy* at the end of the tenancy.
  - h. Paint on the walls in reasonable condition.
  - i. Burn mark on the floor at the end of the tenancy.
  - j. Greenspace (yards) were in reasonable condition.
  - k. Barbecue was left behind by the Tenant said she would return to collect.
10. The Tenant confirmed she had left some of her personal property behind at the end of the tenancy but had explained to the Landlord's property manager she would be collecting it, which she has now done.
  11. Mr Lewis, an acquaintance of the Tenant, had helped the Tenant move in and out of the premises and his evidence aligned with that of the Landlord's former property manager, namely that it was reasonably clean and tidy. Further, Mr Lewis had been inside and around the premises and confirmed the premises were in a much better state at the end of the tenancy than they were in at the start, when he moved the Tenant in.
  12. Neither witness expressed any concerns about the condition of the premises at the end of the tenancy.
  13. The Landlord questioned the Tenant's witnesses and did not glean any further information I would regard as helpful to his case.
  14. At the end of the evidence I was satisfied the Landlord had insufficient evidence to support his claims for compensation for rubbish removal, cleaning, loss of income (time off work for cleaning, etc.), and mental harm (due to the Tenant meddling in his private affairs – addressed in separate proceedings).
  15. The Tenant counter-claimed for compensation for time spent helping the Landlord's cousin remove the Landlord's property from the premises.
  16. I told the Tenant quite plainly, she did not need to remove the Landlord's property as there was a Tribunal Work Order requiring him to make his own arrangements to have it removed, which I could not now enforce against him due to her efforts in fulfilling it on his behalf. I accept the Tenant's claim that she just wanted the property gone and it served her interests to help remove it, however, I am unable

to award her any compensation for her efforts because the Landlord had paid his cousin to remove his property and had not agreed for the Tenant to be involved in this process, and further, the Tribunal had not directed the Tenant to undertake the work for payment unless the Landlord did not comply with the Work Order. The Work Order did not say the Tenant would be paid if she helped the Landlord to comply with the Work Order.

17. Consequently, I have not awarded compensation to either party and costs lie where they fall.



M Steens  
04 January 2023

## **Please read carefully:**

Visit [justice.govt.nz/tribunals/tenancy/rehearings-appeals](https://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](https://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](https://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](https://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.

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If you require further help or information regarding this matter, visit [tenancy.govt.nz/disputes/enforcing-decisions](https://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](https://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](https://tenancy.govt.nz/disputes/enforcing-decisions), pe fesootai mai le Tenancy Services i le numera 0800 836 262.