

TENANCY TRIBUNAL - Remote Location

APPLICANT: Jean Marilyn Bewick
Landlord

RESPONDENT: Nicola Margaret Lawrence
Tenant

TENANCY ADDRESS: 117 Seaview Road, Paraparaumu Beach, Paraparaumu
5032

ORDER

1. No suppression orders apply around publication of this decision.
2. Nicola Margaret Lawrence must pay Jean Marilyn Bewick \$870.44 immediately, calculated as shown in table below:

Description	Landlord	Tenant
Break Lease fee	\$850.00	
Filing fee reimbursement	\$20.44	
Total award	\$870.44	
Total payable by Tenant to Landlord	\$870.44	

Reasons:

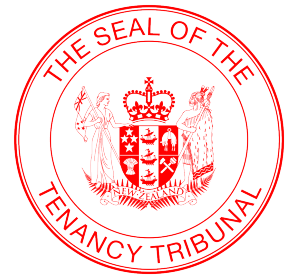
1. Both parties attended this remote teleconference hearing on 27 September 2023.
2. The parties entered into a tenancy agreement in February 2023.

3. The tenancy was to have commenced on 1 April 2023.
4. Having signed the tenancy agreement on 17 February 2023, the tenant says that she contacted the landlord the next day to let the landlord know that she had changed her mind about the tenancy and no longer wished to proceed with the tenancy. As a matter of law, the tenant is not entitled to simply cancel the agreement because they have changed their mind.
5. The landlord says that they agreed to the surrender of the lease on the basis that the tenant paid the costs associated with reletting the premises. The landlord said that reletting was difficult and that it took three weeks to find new tenants. The landlord said that no rent was received for that three week period, but that they had not sought payment from the tenant for that amount.
6. Where a tenant surrenders a tenancy and the landlord consents to the surrender, the landlord is entitled to recover from the tenant “any expenses reasonably incurred by the landlord in respect of the termination” s.44A(1) Residential Tenancy Act 1986.
7. The landlord seeks \$862.36 for time, travel, advertising, credit and background checks, attending viewings and administration time. The landlord explained that these were actual costs incurred in obtaining new tenants and not a standard fee.
8. The tenant submitted that the landlord would have incurred this cost anyway at the end of the fixed term tenancy and that no costs had been incurred by the landlord in finding her as a tenant. However, this is not a certainty. A landlord can sometimes re-let the premises without the need for advertising and other related costs. That was not the situation here .
9. The landlord does not need to rely upon the tenancy agreement to seek payment, or partial payment, of this type of cost in a break-lease scenario. The cost is recoverable on a compensation basis. The argument is that if it weren't for the break lease, the landlord would not have incurred this cost until the end of the tenancy, and therefore the landlord has incurred an “additional” cost as a result of the early termination.

10. I accept that the sum claimed by the landlord was a direct and necessary consequence of ending the tenancy before the expiry of the fixed term. The sum claimed is not unreasonable.

11. As Jean Marilyn Bewick has wholly succeeded with the claim I must order the tenant to reimburse the filing fee.

12. The tenant applied for name suppression. The tenant has not been wholly or substantially successful in this matter and the application is dismissed.



S Young
27 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.