

TENANCY TRIBUNAL - Christchurch | Ōtautahi

APPLICANT: Gold Property Management Limited as agent for Julie Sinukaban

Landlord

RESPONDENT: Jenny Elaine Searle (Hubert), James Andrew Hubert

Tenant

TENANCY ADDRESS: 179 Palmers Road, New Brighton, Christchurch 8083

ORDER

1. An application for suppression has been made in this case but no order is made.
2. Jenny Elaine Searle (Hubert) and James Andrew Hubert to pay Gold Property Management Limited as agent for Julie Sinukaban \$2,099.46 from the bond, calculated as shown in table below:

Description	Landlord	Tenant
Cleaning (consent)	\$654.67	
Rubbish removal (reduced)	\$1,184.35	
Carpet cleaning (consent)	\$240.00	
Filing fee reimbursement	\$20.44	
Total award	\$2,099.46	
Bond	\$2,099.46	\$300.54

3. The Bond Centre is to pay the bond of \$2,400.00 (5909211-003) immediately apportioned as follows:

Gold Property Management Limited as agent \$2,099.46
for Julie Sinukaban:

Jenny Elaine Searle (Hubert) and James \$300.54
Andrew Hubert:

4. The landlord's application for rent arrears is withdrawn.
5. The tenants' application is dismissed.

Reasons:

1. Both parties attended the hearing. Mr Christiansen represented the landlord.

The landlord's application

2. The landlord has applied for rent arrears, compensation, refund of the bond, and reimbursement of the filing fee following the end of the tenancy.
3. The landlord withdrew the application for rent arrears (\$85.71).
4. The tenant accepted the landlord's claims for cleaning and carpet cleaning. I have allowed those claims by consent.
5. After hearing the tenants' evidence, the landlord reduced the claim for rubbish removal. I have awarded the reduced amount based on the photographic evidence produced and the tenants' acknowledgment that they did not remove all their rubbish.

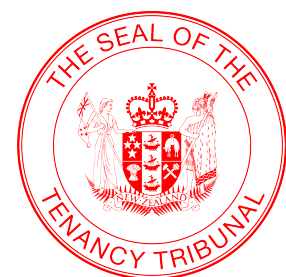
The tenants' application

6. The tenants have applied for compensation for alleged breaches by the owner of the premises in relation to the sleepout and the caravan at the premises.
7. The tenants seek compensation because they say a caravan was provided as part of the tenancy but was unliveable, and the sleepout was unconsented and therefore unlawful for use.
8. The tenancy started on 2 May 2022. The tenancy agreement is between the owner of the premises and the tenants.

9. The owner's agent Gold Property Management Ltd (GPML) only became the landlord on 9 June 2022. Mr Christiansen gave evidence that the old caravan on site was not included in the tenancy agreement nor was it part of the management agreement between the owner and her agent.
10. Generally, an agent is not liable in law for the actions of its principle. So, GPML is not liable for any alleged breaches by the owner who was the landlord when the tenancy started.
11. The tenants' claims in relation to the caravan and the sleepout date to the commencement of the tenancy. If the sleepout was unlawful then, the claim must be made against the landlord at the time – the owner.
12. The tenants can pursue a claim against the owner of the premises for breaches that they allege occurred at the start of the tenancy, but not against GPML.
13. I have therefore dismissed the tenants' application against GPML.
14. On the landlord's successful application I have reimbursed the Tribunal filing fee.

Name suppression

15. The landlord did not seek a name suppression order.
16. The tenants sought name suppression. They are not entitled to a name suppression order because their application is unsuccessful, and they accepted most of the landlord's claims – see section 95A Residential Tenancies Act 1986.



J Greene
28 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.