

**TENANCY TRIBUNAL - Remote Location**

APPLICANT: Kāinga Ora–Homes And Communities  
Landlord

RESPONDENT: Cathryn Margaret O'Neill  
Tenant

TENANCY ADDRESS: 43B Linwood Drive, Paraparaumu, Paraparaumu 5032

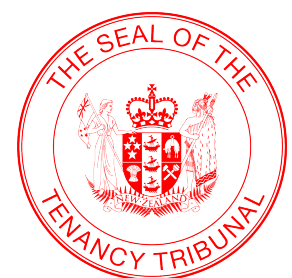
**ORDER**

1. No application for suppression has been made in this case and no suppression orders apply around publication of this decision.
2. Cathryn Margaret O'Neill must, before Friday 27 October 2023, allow the landlord to enter the premises for the purposes of a property inspection before Friday 27 October 2023. The landlord must first give the tenant at least 48 hours' notice of the date and approximate time of the intended entry.

**Reasons:**

1. The landlord attended the hearing by teleconference represented by Ms Rea. The Tribunal attempted to contact the tenant on cell phone numbers provided for her in the application, but the cell phone numbers were either not active or the calls diverted to voicemail.
2. I also acknowledge that the tenant made a request for an adjournment of the hearing on grounds that she was ill and could not attend. She mentioned that this was due to the ongoing stress of this matter. I declined to adjourn without the tenant providing a further explanation as to why she could not attend by telephone and a medical certificate, if possible. No further evidence of this nature was supplied.
3. I am satisfied that the tenant had notice of the hearing but chose not to attend.

4. The landlord has applied for an order allowing them entry to the premises for the purposes of a property inspection to assess the premises for compliance with Healthy Homes Standards and general maintenance.
5. Section 48(2) of the Residential Tenancies Act 1986 (RTA) provides that the landlord may enter the premises for the purpose of carrying out necessary repairs or necessary maintenance or for inspecting the premises, after giving the tenant the required notice (at least 24 hours' notice for repairs or 48 hours for inspections) or with the tenant's consent given immediately before the time of entry. If the appropriate notice is given, the tenant's consent to the access is not required.
6. The landlord has attempted, after giving the appropriate notice, to conduct a property inspection on five occasions between March - May 2022. A visit did take place on 17 November 2022 but since then further attempts to visit and complete inspections, including an inspection visit arranged for 11 May 2023, have failed. The tenant has either rescheduled or refused access. This is a breach of her obligations in section 48(2) RTA (as set out above).
7. The tenant must allow the landlord access to complete the inspection within the next four weeks, that is before 27 October 2023, provided the landlord first gives the tenant the appropriate notice of the intended entry.
8. Failure by the tenant, without reasonable excuse, to allow the landlord access as permitted by section 48(2) is an unlawful act for which exemplary damages up to a maximum of \$1,500.00 maybe payable. It is also a breach that, in certain circumstances, may entitle the landlord to an order terminating the tenancy.



K Stirling  
28 September 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.