

TENANCY TRIBUNAL - [Event location suppressed]

APPLICANT: [The applicant/s]

RESPONDENT: Tenant

RESPONDENTS: [The respondent/s]

APPLICANTS Landlords

TENANCY ADDRESS: 65 Te Hou Hou Crescent, Papamoa Beach, Papamoa 3118

ORDER

1. An application for suppression has been made in this case, and the Tribunal orders suppression of the Tenant and Landlords' names and identifying details.
2. The applications are dismissed.

Reasons:

1. Both parties attended the hearing.
2. Each of the parties have brought an application against the other.
3. The tenant's application concerns his claim that he has been harassed by the landlords.
4. The landlords seek a series of work orders requiring the tenant to repair the damage that the tenant's dog "F" has caused to both the inside and outside of the premises.

The tenant's claim

5. Section 38(2) of the Residential Tenancies Act 1986 provides that a landlord shall not cause or permit any interference with the reasonable peace, comfort, or privacy of the tenant in the use of the premises. Contravention of s38(2) in circumstances that amount to harassment is an unlawful act.
6. The tenant stated that the landlords had harassed him by:

- inspecting the premises two days after he had broken his leg and then advising him of various 'issues' in relation to that inspection; and
 - Threatening to terminate his tenancy because he had not repaired the damage to the premises as per a 14 day notice issued to him dated 4 May 2023 and in an email dated 30 July 2023.
7. I am dismissing the tenant's claim because neither of these two actions support his contention that he was being harassed. The tenant had allowed the inspection and the landlords were legally entitled to point out any issues in relation to that inspection. Further, there is no evidence that when the tenant had not repaired the damage to the premises as required by the 14 day notice, there was a threat to terminate his tenancy.

The landlords' claim

8. It was acknowledged by both parties at today's hearing that the tenant was responsible for repairing any damage done by F or any other dog or person he had allowed onto the property. The landlords sought work orders for the tenant to undertake these repairs.
9. I am dismissing the claim for work orders because the general understanding is that tenants are to return the premises to the landlord in a reasonable condition at the end of the tenancy. There is no obligation to undertake repairs during the tenancy.
10. I also explained s40(2) of the Residential Tenancies Act 1986. That section provides that a tenant shall not intentionally or carelessly damage, or permit any other person to damage, the premises.
11. At today's hearing the tenant understood the obligation to repair or pay the cost of repairing damages caused by F. Allowing F to continue damaging the premises is seen as intentional damage for which the tenant is liable as provided by s40(2) – his obligation is to stop the damage from continuing.
12. Although the tenant states that F has largely outgrown his destructive behaviour he acknowledges that F cannot resist chewing the irrigation system which makes it inoperable. There was an understanding at today's hearing that the tenant will have the irrigation system operational when his tenancy ends and that in the meantime he will undertake to replicate the function of the irrigation system by hosing the area that the irrigation system covers.

Filing fee reimbursement

13. If a party is wholly or substantially successful in their claim, then the Tribunal orders the other party to reimburse them the filing fee. Neither party were successful in their claims and so each party must bear their own cost of filing in the Tribunal.

Suppression

14. Section 95A of the Residential Tenancies Act 1986 provides that:

- (1) The Tribunal may, on the application of any party to the proceedings or on its own initiative, having regard to the interests of the parties and to the public interest order that all or part of the evidence given or the name or any identifying particulars of any witness or party not be published.
- (2) An order may be subject to any conditions that the Tribunal considers appropriate.
- (3) If a party that has wholly or substantially succeeded in the proceedings applies for an order that their name or identifying particulars not be published, the Tribunal must make the order unless the Tribunal considers that publication is in the public interest, or is justified because of the party's conduct or any other circumstances of the case.

15. On my own initiative and after discussion with both parties today, I am ordering both parties' names to be suppressed. This is because at today's hearing I saw both parties trying to resolve the issues between them, and although both claims failed the issues between them were genuine. I do not consider that there is any public interest in having their names published.

C ter Haar
12 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.