

TENANCY TRIBUNAL - North Shore | Ōkahukura

APPLICANT: Juliana Bahadin
 Tenant

RESPONDENT: Catherine Gunn
 Landlord

TENANCY ADDRESS: Unit/Flat 3, 44 Stanley Point Road, Stanley Point, Auckland
 0624

ORDER

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

Reasons:

1. Both parties attended the hearing. The tenant was represented by Choon Wee Ang.
2. The tenant has applied for a claim relating to the Healthy Homes standards.
3. The claim concerns the flooding event in Auckland on 27 January 2023. The downstairs of the tenancy flooded. The tenant is seeking compensation equivalent to one week's rent of \$695.00 due to the damage caused by the flood.
4. The tenant refers to the drainage on the premises and states in her application that the landlord had covered the drainage with planter boxes. This is denied by the landlord who says that subsequent to the flooding she has not been able to locate a stormwater drain for the premises.

5. At the hearing the landlord produced a Certificate of Compliance dated 4 August 2022 which states that the tenancy complies with regulation 27 of the Healthy Homes standards in that it has an effective drainage system.
6. This certificate is evidence that the landlord had complied with her obligation in relation to the Healthy Homes standards as it relates to drainage. What transpired was that either the drainage was not effective due to the heavy rainfall, or the flooding of the premises had been exacerbated by other factors such as the neighbour's swimming pool overflowing.
7. After the flooding the landlord arranged for a contractor to commence the clean up within 24 hours of the flooding. The landlord had offered the tenant alternate accommodation which was not accepted and instead she stayed elsewhere. That accommodation required considerable travel to the tenant's place of employ.
8. I acknowledge that there was some inconvenience to the tenant as there was to all tenants and landlords who were impacted by the flooding. But the question I must consider is whether the landlord was in breach of the Healthy Homes standards and if so, whether the tenant should be compensated.
9. Given the Certificate of Compliance I consider that the landlord has not breached the Healthy Homes standards. Also, it became apparent during the hearing that the landlord had already offered rent relief equivalent to 11 days rent totalling \$1092.00 as well as a reduction in the utility costs. That offer had been accepted.
10. I do not consider that the tenant is entitled to any further compensation. In the circumstances the landlord acted reasonably.
11. The tenant's claim is dismissed.



N Walker
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.