

**TENANCY TRIBUNAL - Auckland | Tāmaki Makaurau**

**APPLICANT:** Shelter Realty Limited T/As Harcourts New Lynn As Agent  
For Yuan Fei Wang

Landlord

**RESPONDENT:** Kāhui Tū Kaha Limited

Tenant

**TENANCY ADDRESS:** Unit/Flat 312, 15 Union Street, Auckland Central, Auckland  
1010

**ORDER**

1. No suppression orders apply to the publication of this order.
2. The tenancy of Kāhui Tū Kaha Limited and any of its subtenants at Unit/Flat 312, 15 Union Street, Auckland Central, Auckland 1010 is terminated, and possession is granted to Shelter Realty Limited T/As Harcourts New Lynn As Agent For Yuan Fei Wang, at 5:00 pm Sunday 17<sup>th</sup> December 2023.
3. Kāhui Tū Kaha Limited to pay Shelter Realty Limited T/As Harcourts New Lynn As Agent For Yuan Fei Wang \$1,267.94 calculated as shown in table below.

Description	Landlord	Tenant
Repairs: Emergency light	\$287.50	
Security callout	\$235.75	
Repairs: Mailbox	\$195.50	
Body Corporate committee fees	\$528.75	
Filing fee reimbursement	\$20.44	
<b>Total award</b>	<b>\$1,267.94</b>	

**Reasons:**

1. Both parties attended the hearing on 27<sup>th</sup> November 2023.

2. The landlord has applied for termination of the tenancy for breach of the tenant's obligations.
3. The tenant is a social housing provider.

*Should the tenancy be terminated?*

4. The Tribunal may terminate a tenancy for breach where, due to the nature or extent of the breach, it would be inequitable to refuse to terminate. See section 56(1) Residential Tenancies Act 1986.
5. Where the breach is capable of remedy the landlord must first serve a notice on the tenant requiring them to remedy the breach within at least 14 days and establish that the tenant has failed to do so.
6. The tenant has breached their obligations by causing or permitting interference with the reasonable peace, and comfort of other persons residing in the neighbourhood. This included the tenant stealing mail and damaging the mailbox and playing loud music at late hours of the night into early hours of the morning.
7. The landlord served a 14-day notice on the tenant on 17<sup>th</sup> October 2023, and the tenant did not remedy the breach within the required period.
8. It would be inequitable to refuse to terminate the tenancy because the tenant did not stop the loud music playing but continued instead.
9. Since the application had been filed, there were 3 separate occasions within a 90-day period where the anti-social behaviour continued. Notices were given appropriately according to the anti-social behaviour provisions.
10. Furthermore, the tenant did not dispute the termination sought by the landlord.
11. Accordingly, I grant the landlord's application for termination.
12. The tenancy of Kāhui Tū Kaha Limited and any of its subtenants at Unit/Flat 312, 15 Union Street, Auckland Central, Auckland 1010 is terminated, and possession is granted to Shelter Realty Limited T/As Harcourts New Lynn As Agent For Yuan Fei Wang, at 5:00 pm Sunday 17<sup>th</sup> December 2023.

*Compensation claims*

13. The landlord sought compensation for the invoices issued by the Body Corporate to the landlord.
14. For damage claims, a landlord must prove that damage to the premises occurred during the tenancy and is more than fair wear and tear. If this is established, to avoid liability, the tenant must prove they did not carelessly or intentionally cause or permit the damage. Tenants are liable for the actions of

people at the premises with their permission. See sections 40(2)(a), 41 and 49B Residential Tenancies Act 1986 ("RTA").

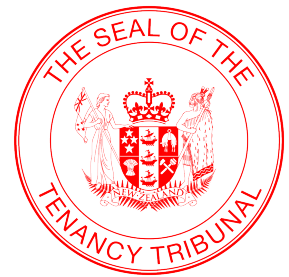
15. Where the damage is caused carelessly, and is covered by the landlord's insurance, the tenant's liability is limited to the lesser of the insurance excess or four weeks' rent.
16. Where the damage is careless and is not covered by the landlord's insurance, the tenant's liability is limited to four weeks' rent. Where insurance money is irrecoverable because of the tenant's conduct, the property is treated as if it is not insured against the damage. See section 49B(3A)(a) RTA.
17. Tenants are liable for the cost of repairing damage that is intentional or which results from any activity at the premises that is an imprisonable offence. This applies to anything the tenant does and anything done by a person they are responsible for. See section 49B(1) RTA.
18. Damage is intentional where a person intends to cause damage and takes the necessary steps to achieve that purpose. Damage is also intentional where a person does something, or allows a situation to continue, knowing that damage is a certainty. See *Guo v Korck* [2019] NZHC 1541.
19. The landlord sought compensation for:
  - a. Fixing and resetting the emergency alarm broken by the tenant: \$287.50
  - b. Additional security hired to attend assault, disorder and threats: \$235.75
  - c. Replace the mailbox and supply keys: \$195.50
  - d. Failed methamphetamine screening in 2020: \$293.25
  - e. Failed methamphetamine screening in 2023: \$304.75
  - f. Body Corporate committee's time for issuing breach notices for the premises: \$528.75; and
  - g. Extra security fee of \$3,360.01.
20. Having gone through the evidence with both parties, the tenant did not dispute the listed claims except the two methamphetamine screening costs and the extra security fee of \$3,360.01.
21. I agree with the tenant as neither of the methamphetamine screening tests resulted in readings above the 15 ug/100cm<sup>2</sup>, I find that the tenant is not liable for the screening fees.
22. Although I accept that this is higher than the 1.5 ug/100cm<sup>2</sup> New Zealand standard, the screening reports make clear about the distinction between the two standards.
23. For the extra security fee, the email thread between the Police and the Body Corporate makes it clear that additional security was hired between 20<sup>th</sup> March

2023 and 3<sup>rd</sup> April 2023 to assist with the gathering of evidence in relation to four apartments, a hair salon and the lower terrace.

24. Despite the original intention, it does not seem that there was anything found that assisted the Police in gathering evidence to obtain a search warrant in relation to the tenant's apartment.
25. The other breaches picked up by the extra security were not necessarily anything more than what CCTV would have picked up in any case and does not warrant any compensation from the tenant.
26. I dismiss the claim for extra security.

*Filing fee reimbursement*

27. As the landlord has substantially succeeded with the application, I order the tenant to reimburse the filing fee.



J Yi  
28 November 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.