

**Order of the Tenancy Tribunal***Residential Tenancies Act 1986**Office of the Tenancy Tribunal***Tenancy Tribunal at Manukau****Tenancy Address**

34b Tairere Crescent, Rosehill, Papakura 2113

**Applicant**

Full Name

Cameron Taylor

Tenant

**Respondents**

Full Name

PNL Investments Limited

Landlord

**Order of the Tribunal**

The Tribunal hereby orders:

1. PNL Investments Limited to pay Cameron the sum of \$350.44 immediately calculated as follows:

Costs to be paid to Tenant:

Refund of letting fee	\$330.00
Filing fee reimbursement	\$20.44

**Amount payable by Landlord to Tenant** \$350.44

(Sections 78(1)(d) Residential Tenancies Act 1986)

2. By Way of Declaration:

The landlord is liable for the water rates for the premises at 34b Tairere Crescent, Rosehill, Papakura 2113, until such time as a checkmeter is installed at the premises.

(Section 78(1)(a) Residential Tenancies Act 1986)

3. The landlord is to lodge the bond of \$990 with the Bond Centre immediately.

(Section 19 and 78(2)(l) Residential Tenancies Act 1986)

**Reasons:**

1. Water Rates:

A tenant is liable for outgoings that are exclusively attributable to their occupation of the premises - section 39(3) Residential Tenancies Act 1986, (RTA). There are two houses on the section. There is no checkmeter to separately record the water used by each house. There is no way of assessing how much of the joint water usage is exclusively attributable to the tenant's occupation of the premises and Mr Cameron is therefore not liable for water rates at the premises.

2. Letting Fee:

Mr Pala charged the tenants a letting fee. He is named as one of the three shareholders of the landlord company. His family trust of which he is trustee owns two other properties for which he has also charged a letting fee.

A letting agent is an intermediary between the landlord and tenant and is defined as:

"a person who, in the ordinary course of business holds himself out to the public as ready to act, for reward as an agent in respect of the grant or assignment of tenancies..."

I am not satisfied that Mr Pala has established that he is a letting agent. The properties are owned by him as trustee for the family trust. He has not established that he holds himself out to the public as available to find tenants for properties they wish to rent out. The letting fee is to be refunded to Mr Cameron.

3. Power Bills:

There is a separate meter for each premises at the property. It is the landlord's responsibility to read the meters and to calculate the amounts owing by each tenant every time a power account is received by the landlord. A copy of the account from the electricity supplier along with the calculations of what is payable is to be presented to the tenant.

4. Bond:

The landlord is to lodge the bond at the Bond Centre immediately. If it is not sent to the Bond Centre within 10 days of the date of this order the tenant may apply to the Tribunal for an award of exemplary damages for failure to lodge the bond.

5. If an applicant is wholly successful in their claim the Tribunal must order that the other party pay the applicant the filing fee paid for the application.