

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

Flat 4, 1 Rebecca Rise, Weymouth, Auckland 2103

Applicant

Full Name

Inspire Property Management Limited

Landlord

Respondents

Full Name

Farisha Fareen Saheb

Tenant

Order of the Tribunal

The Tribunal hereby orders:

1. Farisha Saheb to pay Inspire Property Management Limited the sum of \$2,786.90 immediately calculated as follows:

Rent arrears to 26/01/2017	\$2,734.29
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plus Costs to be paid to Landlord:

Water rates	\$32.17
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Filing fee reimbursement	\$20.44
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Amount payable by Tenant to Landlord	\$2,786.90
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(Sections 77(2)(k) and 78(1)(d) Residential Tenancies Act 1986)

Reasons:

1. The parties entered into a fixed term tenancy from 19 October 2016 to 18 October 2017.
2. Ms Saheb wished to end the tenancy early. She was advised by the landlord that she could do so, but that she would remain liable under the agreement until a new tenant was found. Ms Saheb gave 21 days' notice and moved out on the 1 January 2017. A new tenant moved in on

27 January 2017. The landlord seeks rent to 26 January 2017.

3. Ms Saheb claims that she did not know it was a fixed term tenancy and she was advised by the letting agent that the end date in the agreement was just for office use.
4. I do not find this assertion to be credible. Clause one of the agreement relating to a periodic tenancies has clearly been crossed out, and the start and end date for a fixed term tenancy inserted in clause two. Ms Saheb has signed and dated the agreement.
5. I find that the parties agreed to enter into a fixed term tenancy.
6. A fixed term tenancy is what it states to be - it is for a fixed term. It cannot be ended by 21 days' notice. It can only be ended early by agreement between the parties. The landlord explained to Ms Saheb that it agreed to an early termination of the tenancy, but that she would be liable until a new tenant was found.
7. Ms Saheb claims the premises were damp and unsuitable for her young son who has medical issues. Ms Saheb stated that she had been misled about insulation at the property and no statement with regard to insulation had been provided by the landlord as required by the law.
8. From 1 July 2016 a landlord is required to provide an insulation statement in a tenancy agreement. The agreement contains an insulation statement, however it has not been filled in by the landlord. Failure to fill in the statement does not invalidate the agreement. Rather, failure to provide such a statement is an unlawful act and may be subject to exemplary damages to a maximum of \$500.
9. The agreement therefore makes no statement that the property is insulated so it is difficult to see how Ms Saheb has been misled. In any event the Tribunal has no claim before it from Ms Saheb.
10. I find Ms Saheb liable for rent to 26 January 2017, a sum of \$2,734.29.
11. The claim for water rates is accepted by Ms Saheb.
12. Break Lease Fee: \$180
The landlord stated that this was for advertising costs and credit checks for a new tenant. This cost would have been incurred anyway at the end of the fixed term tenancy. The claim for the break lease fee of \$180 is dismissed.
13. I am satisfied that the applicant has been largely successful in the claims brought to the Tribunal and therefore consider it appropriate that the other party pay the applicant the filing fee.