

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

15a Owles Terrace, New Brighton, Christchurch 8061

**Applicant**

Full Name

Champagne Homes Limited

Landlord

**Respondents**

Full Name

Alysha Hannaka Lyn Howe

Tenant

**Order of the Tribunal****The Tribunal orders:**

1. Termination of the tenancy of Alysha Howe of 15a Owles Terrace, New Brighton, Christchurch 8061 and possession granted to the applicant at midnight on **14 December 2017**.

(Sections 55(1)(b) and 64 Residential Tenancies Act 1986)

2. Alysha Howe to pay Champagne Homes Limited the sum of \$631.16 immediately calculated as follows:

Rent arrears to 14 December 2017	\$610.72
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plus costs to be paid to Landlord:

Filing fee reimbursement	\$20.44
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<b>Amount payable by Tenant to Landlord</b>	<b>\$631.16</b>
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(Sections 40, 77 and 78 Residential Tenancies Act 1986 ("RTA"))

**Reasons:**

1. In this application the landlord sought termination on the grounds that: (i) the tenant has damaged the premises and (ii) rent arrears are owed.

2. The tenant did not attend the hearing.
  3. The landlord's evidence was that after the application was filed further, and substantial, damage has been done to the premises. The landlord's claims in this regard were recorded in additional documents attached to, and served with, the application.
  4. Pursuant to section 55(1)(b) RTA the Tribunal must make an order terminating a tenancy where it is satisfied that "the tenant has caused, or has permitted any other person to cause...substantial damage to the premises".
  5. A large number of photographs, taken by the applicant during recent inspections of the premises, were produced as evidence during the hearing. In addition, written reports and quotations from contractors were produced in relation to some of the items of damage. The applicant's evidence was that the premises were newly renovated immediately prior to the commencement of this tenancy.
  6. After considering the evidence adduced, I am satisfied that the applicant has proved to the required standard that the following parts of the premises have been damaged during the tenancy: (i) three smoke alarms have been removed, (ii) plumbing fittings from underneath the tub in the garage have been removed, (iii) walls and a door have been extensively drawn or scribbled on, (iv) the carpet in the hallway has been damaged with water and now has mould growing on the underside of it, (v) a door handle was removed, (vi) a bathroom vanity cabinet has been damaged, (vii) recessed light fittings have been pulled from the ceiling and either left hanging or taped back into place, (viii) walls, skirtings and floor tiles have been damaged, (ix) a 'manhole' cover in the garage has been damaged and (x) a ceramic cooktop has been damaged.
  7. The applicant's present estimate of the likely repair costs, some of which is supported by written quotations from contractors, exceeds \$18,000. I was told that there is an issue with the landlord's insurance for the premises lapsing due to an oversight. In any event, the issue of any potential insurance cover would not be relevant to the tenants' liability for the costs of repairing damage caused intentionally - see sections 268 and 269 of the Property Law Act 2007 and *Tekoa Trust v Stewart* [2016] NZDC 25578.
  8. The expression "substantial damage" as used in section 55(1)(b) RTA was considered by the District Court in *Morton v Barnhorn* (DC Dunedin, TT189/97, 23 April 1997) with the Court referring to the "ordinary meaning" of that word as well as a dictionary definition: "of ample or considerable amount, quantity or dimensions". In *Morton*, the Court was satisfied that marks left on a wall by 'blue tack' did not amount to substantial damage.
  9. After considering the evidence adduced I find that the applicant proved that it is more probable than not that the tenant has caused, or permitted to be caused, substantial damage to the premises. The damage listed above is "considerable" whether viewed in terms of amount or quantity and whether considered in totality or in respect of just some the more 'serious' items of damage such as the removal of the smoke alarms, the carpet, the vanity cabinet, the drawn-on walls or the light fittings. I also note here that the removal of smoke alarms by a tenant is an unlawful act - see section 40(2)(ab) RTA.
  10. An order terminating the tenancy under section 55(1)(b) RTA is therefore made.
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11. The amount of rent owing has been established. A rent record was produced as evidence.
12. 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.