[2025] NZTT 5167816

TENANCY TRIBUNAL AT REMOTE LOCATION | TE TARAIPIUNARA RETIHANGA

APPLICANT: Kāinga Ora–Homes And Communities

Landlord

RESPONDENT: Brian Peterson Alan Poi

Tenant

TENANCY ADDRESS: 7 Shelley Court, Enderley, Hamilton 3214

ORDER

1. Brian Peterson Alan Poi owes Kāinga Ora–Homes And Communities $2,623.85 ("the debt") being rent arrears to 9 April 2025.
2. Brian Peterson Alan Poi must pay rent and the debt as follows:
   a. By 59 fortnightly payments of $486.00, being $442.00 for rent and $44.00 for the debt.
   b. A final payment of $469.85, being $442.00 for rent and $27.85 for the debt.
   c. Payments will be every other Thursday, with the first payment on 10/04/2025 and continuing until 15/07/2027.
   d. If the tenant's rent changes then the amount payable under this order will change so that the tenant pays the rent plus a sum of $22.00 per week in reduction of the debt.
3. Payments will be allocated in the following order: rent and then rent arrears.
4. **If the tenant fails to pay rent and rent arrears within 2 working days of the due dates**:
   a. The tenancy at 7 Shelley Court, Enderley, Hamilton 3214 will **terminate** and the landlord will have immediate possession of the premises.

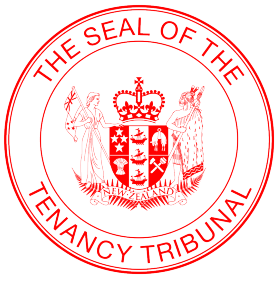
b. The balance of the debt will be payable immediately.

Reasons:

1. Both parties attended the hearing by telephone.
2. The landlord has applied for termination of the tenancy and rent arrears. The tenant wants to repay the debt to avoid immediate termination.
3. The rent has fallen into arrears because the tenant did not complete his annual income review with MSD and so his rent increased to a market rent.
4. The tenant has now completed the review with MSD and the income related rent has been set at $211.00 per week. An adjustment has been made backdating the new rent which has reduced the tenant's arrears by $2,415.00.

Should a conditional termination order be made?

5. Where rent is at least 21 days in arrears on the date the application was filed, the Tribunal must make either a final or a conditional termination order. See section 55(1)(a) and (1A) Residential Tenancies Act 1986.
6. I am satisfied the tenant will pay the debt within the period specified in the order and is unlikely to commit any further relevant breach. I have granted a conditional termination order.
7. The conditional termination order will lapse if it is fully complied with. If the tenant breaches the order, the possession order may be enforced for 90 days from the first breach. See section 64(4)(b) Residential Tenancies Act 1986.



G Baker
04 April 2025

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 $260. 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.