[2025] NZTT 5205057

TENANCY TRIBUNAL AT [Event location suppressed]

APPLICANT: [The applicant/s]

Tenant

RESPONDENT: Brett Ensom

Landlord

TENANCY ADDRESS: Unit/Flat 1, 22 Foster Terrace, Onekawa, Napier 4110

ORDER

1. An application for suppression has been made in this case, and the Tribunal orders suppression of the tenant's name and identifying details.
2. The Bond Centre must pay the bond of $1,470.00 ([Bond number suppressed]) to [The tenant/s], immediately.
3. Brett Ensom must pay [The tenant/s] **$1,939.21**immediately, calculated as shown in the table below.

Description	**Landlord**	**Tenant**
Exemplary damages: fail to lodge bond		$500.00
Compensation: no use of oven		$200.00
Compensation: refund electrical inspection fee		$589.96
Compensation: refund plumbing inspection fee		$132.25
Compensation: general damages		$490.00
Filing fee reimbursement		$27.00
Total award		**$1,939.21**
Total payable by Landlord to Tenant		**$1,939.21**

Reasons:

1. Both parties attended the hearing.

2. The Tribunal made an Order dated 8 May 2025, that the landlord carry out specified work, that the bond be lodged with the Bond Centre by 5 May 2025 and that the landlord pay compensation and exemplary damages to the tenant.
3. That Order was made without the landlord having attended the hearing. The landlord applied for a rehearing which was granted by Order dated 8 May 2025.
4. The rehearing was to be of all Orders except in relation to the landlord's lodgement of the bond, the date for which was extended to 20 May 2025.

The Claims

5. The tenancy has now ended and the tenant no longer asks that work Orders be made.
6. In addition to the claims considered at the earlier hearing, the tenant now seeks compensation for a plumbing inspector's report and for damages for breach of his quiet enjoyment of the premises.
7. Strictly speaking these are new claims that should be brought by way of a fresh application. However, the facts relevant to those claims are well known to the landlord who had fair opportunity to respond to them, so I see no prejudice if those claims are heard today, so all issues concerning the tenancy are dealt with.
8. The landlord has raised grievances in his reply evidence but confirms he does not pursue any claims against the tenant.

Bond

9. A landlord must send any bond payment to the Bond Centre within 23 working days after the payment is received. See section 19(1) Residential Tenancies Act 1986.
10. Breaching this obligation is an unlawful act for which the Tribunal may award exemplary damages up to a maximum of $1,500.00. See section 19(2) and Schedule 1A Residential Tenancies Act 1986.
11. The tenant paid the landlord a bond of $1,470.00 on 29 January 2025. The landlord did not lodge the bond with the Bond Centre until 22 May 2025. He therefore committed an unlawful act and did so intentionally.
12. Where a party has committed an unlawful act intentionally, the Tribunal may award exemplary damages where it is satisfied it would be just to do so, having regard to the party's intent, the effect of the unlawful act, the interests of the other party, and the public interest. See section 109(3) Residential Tenancies Act 1986.

13. I accept the landlord's evidence that he does not have access to a computer and so it was more difficult for him to lodge the bond. He says that it took 3 days with assistance from Citizen's Advice Bureau, to work out a way of paying it by credit card.

14. I accept that as a valid reason for his not quite complying with the Order to lodge the bond by 20 May 2025.

15. It provides no excuse or explanation however, for his failure to lodge the bond in the first place. The need to do so was clearly brought to his attention by the tenant. He was given a notice to remedy by the tenant on 19 March 2025 specifying the breach of not lodging the bond and requiring that it be lodged by 4 April 2025. The landlord ignored that notice.

16. The landlord says that conflict with the tenant and his father had made it clear that the tenancy could not continue so he tried to negotiate an end to the tenancy, including offering for the tenant to use the bond to pay the last 3 weeks rent. He txt the tenant "*I will agree to credit 3 week rent against a months notice when I receive a letter from Tenancy Services saying you have withdrawn all complaints and that our matter has been settled going forward*."

17. After giving notice of termination, the tenant said he would take the landlord up on the offer to apply the bond to the last 3 weeks' rent but the parties could not reach agreement.

18. None of those circumstances is any reason for the landlord to withhold lodging the bond. If anything, the difficulty in the parties' relationship made it even more crucial that the bond be held independently, until any disputes were determined.

19. I find that an award of exemplary damages would be just.

20. As the landlord confirms there are no claims against the bond, the bond is released to the tenant.

Oven

21. Evidence given by the tenant's father [The tenant's father] is that while cooking dinner at about 6:00pm on Saturday March 15th the oven isolating switch began to smoke and spark. The isolating switch was turned off. The tenant informed the landlord who said he'd be around Sunday.

22. [The tenant's father] says the landlord arrived the next day saying to the tenant, *"What have you done wrong now?"* "The landlord disconnected the isolator switch. [The tenant's father] says that he queried whether the landlord was qualified to be doing that work as he is not a qualified electrician, but those concerns were dismissed.

23. [The tenant's father] says that while the landlord was away getting a new switch, [The tenant's father] contacted an electrician friend who confirmed that the work needed to be done by a registered electrician.

24. The landlord fitted a new isolator switch, after which the tenant got advice from an electrical inspector, that a registered electrician could be used to ensure the connection was safe but that the oven could not be used until the installation was signed of by a qualified inspector.

25. The tenant arranged a registered electrician to come. The electrician's report says that he *"Cut away burnt insulation from range cable at switch. Strip back and reterminate. Fit switch the right way up as it had been put back on upside down."*

26. The tenant then did not use the oven for around 6 weeks until it was checked and approved by an electrical inspector.

27. The landlord says there was nothing wrong with the isolator switch.

28. That view seems to be supported by a report from Butler & Hewitt, saying, *"We have tested continuity of power switch and fund it tested fine without any issues."* The landlord has produced photos and the switch itself, which show no obvious damage.

29. However, with respect, whether the switch itself was faulty is not the issue. The electrical inspector's report says:

    "The inspection identified that a loose wiring termination was likely the root cause of reported issue. No active fault was present at the time of inspection and the circuit passed all standard safety tests. However, aspects of the installation were not compliant with current wiring best practices, particularly regarding the connection method for the appliance and the configuration of main conductor terminations. During the course of the inspection it was disclosed that prescribed electrical work associated with the oven circuit-specifically behind the switch-was carried out by the property owner/ landlord, who is not a licensed electrical worker. This constitutes a breach of Regulation 74 of the Electricity Act 1992."

30. What that evidence leads me to find, on balance, is that:

    a. the switch itself was not faulty;

    b. there was a fault from another cause, which caused the smoke and sparking the tenant and his family witnessed;

    c. the tenant acted properly by immediately informing the landlord;

    d. the landlord acted improperly by attempting the remediation work himself when he is not qualified to do so;

e. the tenant was entitled to take the steps he did to have an electrician ensure the connection was safe and refrain from using the oven until it was inspected and cleared.

31. The tenant is entitled to be reimbursed the cost of the inspection and to be compensated for loss of use of the oven.

32. A similar situation occurred regarding plumbing work at the premises. The landlord was aware of a leak under the vanity. When the tenant asked whether the plumbing work there had been carried out by a registered plumber as required, the landlord was simply rude and dismissive.

33. The tenant had the work checked by a plumber who reported, *"On 9 April 2025 we were requested to attend the above address to look at some plumbing work. Upon inspection we found that vanity had been connected to the plumbing and wastewater supply. It appears that the installation was not done by a licensed plumber and was installed to a poor standard as a leak was apparent that has damaged the vanity beyond repair"*

34. For essentially the same reasons as given in relation to the oven power supply, I find that the tenant is entitled to be reimbursed the cost of the plumbing inspection, which is proved by the invoice provided.

Right to Quiet enjoyment

35. Under s.38(1), *"The tenant shall be entitled to have quiet enjoyment of the premises without interruption by the landlord or any person claiming by, through, or under the landlord or having superior title to that of the landlord."*

36. The evidence shows that from the time the tenancy began, the tenant ws engaged in difficult "tussles" with the landlord.

37. The evidence suggests that the issues raised by the tenant with the landlord, such as those discussed in this Order, were legitimate but the landlord chose to see them as at best annoying and unnecessary – at worst malicious. The Tribunal has not heard the evidence relating to the tenant's concerns about a carpet bug infestation, which seems to have triggered the landlord's negative responses to the tenant's concerns.

38. Reviewing the communications between the parties, the tenant's appropriate and polite communications were generally responded to with dismissive, demeaning and often accusatory responses such as about, *"….the carpet bug scheme to catch poorly unsuspecting landlords"*, when reminded about his having agreed to clean out the gutters, *"…so, only a 2 hour job you need to get a life"*, in response to the tenants query about a leaking water connection, *"a crox nut needs tightening, it will only be a small drip, so don't try and make a big deal out of it, put something under it."*

39. As I said during the hearing, the Tribunal's jurisdiction is not to judge parties' actions or behaviour, except in the context of their obligations to each other under the RTA.

40. The evidence persuades me that the landlord's responses to concerns about the need for repair of the premises that the tenant was not only entitled, but required by s.40(1)(d) to bring to the landlord's attention, have impacted significantly on the tenants peaceful enjoyment of the premises.

41. I find that an award of compensation equal to 1 week's rent would be appropriate to compensate the tenant.

42. Because the tenant has had claims upheld I reimburse the filing fee.

B King
11 June 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.