TENANCY TRIBUNAL AT [Event location suppressed]

APPLICANT: [The applicant]

Landlord

RESPONDENTS: [The respondents]

Tenants

TENANCY ADDRESS: [Tenancy address suppressed]

ORDER

1. An application for suppression has been made in this case, and the Tribunal orders suppression of both the Tenants and Landlord's names and identifying details.
2. [The tenants] to pay [The landlord] $1,912.93 from the bond, calculated as shown in table below.

Description	**Landlord**	**Tenant**
Compensation for fridge freezer damage	$524.79	
Compensation for double curtain rod in master bedroom	$240.00	
Compensation for two yale bolts	$119.24	
Carpet Cleaning: first left bedroom stain	$138.50	
Compensation for removal of rail in hallway cupboard	$73.03	
Compensation for removal of stains on bathroom cupboard shelf	$179.19	
Compensation for cleaning pot plant marks of front porch and rear decking	$89.20	
Replace light bulb on kitchen front porch	$14.99	
Compensation for part of Elite invoice	$506.99	
Filing fee reimbursement	$27.00	
Total award	**$1,912.93**	
Bond	$1,912.93	$1,687.07

3. The Bond Centre is to pay the bond of $3,600.00 ([Bond number suppressed]) immediately apportioned as follows:

[The landlord]:	$1,912.93
[The tenants]:	$1,687.07

Reasons:

1. Both parties attended the hearing.
2. The landlord has applied for compensation, refund of the bond, and reimbursement of the filing fee following the end of the tenancy.

RELEVANT LEGAL CONSIDERATIONS

3. The relevant law that applies is found in the Residential Tenancies Act 1986 ("RTA").

   Evidential burden

4. With any claim before the Tenancy Tribunal, the Tribunal applies the usual civil law standards and expectations.
5. That includes a requirement that the party bringing the claim (the applicant), establish their claims "on the balance of probabilities". The balance of probabilities means more likely than unlikely, or in mathematical terms, has a fractionally more than 50% likelihood. The Tribunal does not need to be certain or very sure about any claim, only that what is claimed is likely.
6. This obligation carried by the applicant is referred to as the "burden of proof". Independent witnesses, corroborating documents and photographs are an important part of discharging this burden.
7. As noted by the District Court in *Kaipo v Clarke & McCarthy* (DC) TT233/02, in practical terms this means that:

   > … [L]ike anyone who brings an application before a Tribunal or Court, it is incumbent upon the applicant to provide the evidence necessary to prove the case. If the applicant fails to do that, then their application will be dismissed whether it has merit or not because it is up to the applicant to provide the necessary evidence. It is not up to the other parties, and it is certainly not up to the Tribunal to extract evidence.

8. In summary, I do not need to be completely certain, but I need to be more certain than uncertain. In deciding any claim, I must consider all the evidence presented (including oral evidence during the hearing). I must weigh this evidence to decide what is more likely. If any claim is not established to the balance of probability, it must be dismissed.

9. The Tribunal has reviewed and considered all evidence, though not all is specifically referenced in this decision.

LANDLORD'S CLAIMS

Did the tenant comply with their obligations at the end of the tenancy?

10. At the end of the tenancy the tenant must leave the premises reasonably clean and tidy, remove all rubbish, return all keys and security devices, and leave all chattels provided for their benefit. See section 40(1)(e)(ii)-(v) Residential Tenancies Act 1986. The tenant is required to replace worn out smoke alarm batteries during the tenancy. See section 40(1)(ca) Residential Tenancies Act 1986. The tenant must also replace standard light bulbs.

11. While s40(1)(e)(iii) of the RTA confirms that on termination of the tenancy, the tenant must "leave the premises in a reasonably clean and reasonably tidy condition", this provision does not impose an absolute standard of responsibility. The obligation is not to leave the premises in an immaculate standard of cleanliness and tidiness, nor does it mean that it will necessarily be up to the standard that a landlord might consider for a new tenant, for sale, or for the owner to re-occupy[1]: The standard will vary according to the age and condition of the premises and, the condition that they were in at the start of the tenancy[2]:The test is objective and not based on the subjective opinion of either the landlord or the tenant.

12. In *Housing New Zealand Ltd v Holloway* Auckland TT 215/93, 8 February 1993 the Tribunal stated:

> *"'Reasonably tidy' grounds are not perfect 'prizewinning' grounds, but neither [are they] grounds that suggest a property is unoccupied, or constitute a health hazard (vermin) or fire risk. Rather [it is] something in between; grounds maintained to a standard that an average, reasonable bystander would consider 'reasonably tidy'."*

13. Equally, the inside of a premise does not have to be left at hotel or motel standard, but at a standard an average, reasonable bystander would consider "reasonably clean and tidy".

14. The property management company produced entry and exit reports and photographs that prove the premise was left in a reasonably clean and tidy state overall. The tenants also have photographs that prove the house was left in a reasonably clean and tidy condition at the end of the tenancy, but it was not perfect.

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[1] *Face Property Management Ltd v Mike Bourne Contracting Ltd* Christchurch TT 12/00532/CH, 24 August 2012.
[2] *Westwood v Western* [1994] DCR 759.

15. The owners of the premise have made some claims that indicate they do not agree that the house was left in a reasonably clean and tidy condition. Specifically, they claim:

    a. A number of the net curtains and black out curtains that were stained, or marked from being packed away during the tenancy;

        i. 2 sheer curtains in master bedroom;

        ii. 2 sheer curtains in first left bedroom;

        iii. 2 black out curtains in master bedroom;

    b. The first left bedroom had a brown stain on the carpet that required carpet cleaning to remove it;

    c. They had to replace a light bulb on the kitchen front porch;

    d. The tops of the wardrobes were dusty and needed cleaning;

    e. There were some marks on the walls that needed cleaning;

    f. Fly spots on the ceilngs;

    g. Dust and cobwebs throughout the property;

    h. The artificial turf in the rare garden needed weeding;

    i. The front path needed weeding;

    j. The weeds from the back of the house needed removing and spraying;

    k. The grass was damaged from the tenants trampoline which required top soil and the grass to be resown;

    l. The floor underneath the dishwasher and the fridge freezer needed cleaning;

    m. There was mould in the bedroom and bathroom that needed cleaning;

    n. Stains from pot plants on the front porch and rear deck needed cleaning/removing;

    o. The owners also stated the following chattels were missing at the end of the tenancy; and

    p. Two yale bolts were missing from the first bedroom on the left as they were removed when the tenants installed a roller blind.

Curtains

16. The landlord did not provide sufficient evidence of the stains on the 4 sheer curtains, or the stains on the 2 black out curtains in the master bedroom, to prove these claims on the balance of probabilities. These claims are therefore dismissed.

17. The tenants confirmed the black out curtain for the second to left bedroom was missing at the end of the tenancy. The landlord has sought $240.00 compensation for the new curtain they purchased to replace the missing curtain. The landlord confirmed the original curtain was over 8 years old at the end of the tenancy. The Inland Revenue Department's current depreciation schedule (IR265) states that curtains in a residential rental property have an estimated useful life of eight years. Therefore, the landlord's claim is dismissed because the original curtain was past its expected lifespan at the end of the tenancy.

18. Given that the landlord has not succeeded in its curtain claims, I have not awarded any of the labour costs sought.

Carpet stain

19. The tenants accepted the photographs the landlord produced in evidence proves the first left bedroom had a brown stain on the carpet that required carpet cleaning to remove it. They say they had not noticed this stain on the carpet when they left and had they seen it they would have had it removed. They accept liability for the stain removal, and I award the $138.50 compensation sought by the landlord.

Light bulb

20. The landlord produced evidence the light bulb on the kitchen front porch was not working when they took possession of the premise. The tenants says it was working when they vacate the premise on 18 January 2025 and they would have replaced it had they known it was not working. I am satisfied from the evidence the bulb was not working at the end of the tenancy on 2 February 2025 and award the landlord the $14.99 it cost for it to purchase a new bulb. I consider the $36.88 labour to be excessive for the screwing in of a bulb that could have been done in a few minutes at the same time as other work was being done at the premise. The landlord's claim for this labour cost is therefore dismissed.

Deck/Porch stains from pot plants

21. The landlord produced photographic evidence of stains from pot plants on the front porch and rear deck that were not there at the start of the tenancy and that needed cleaning/removing. The tenants accepted liability for the cost of the cleaning/removing of these stains. I award the landlord the $34.20 for the materials used to clean the marks and 50% of the labour cost sought, being $55.00. I consider the $110.00 labour costs sought to be higher than would reasonably be expected for a job of this nature.

Yale Bolts

22. The tenants accepted liability for the two yale bolts that were missing from the first bedroom on the left as they were removed when the tenants installed a roller blind during the tenancy.

23. The landlord states that it needed to reinstall these bolts to allow it to leave the window open and secure/locked. I award the landlord the $119.24 sought.

Grass damage

24. The tenants accept that the grass was damaged from the tenants trampoline which required top soil and the grass to be resown. The compensation for this claim forms part of the $506.99 awarded from the Elite invoice. I have awarded the landlord 20% of the total Elite invoice for all the proven claims.

25. The landlord's claim for compensation for the cleaning costs set out in below are dismissed for lack of evidence proving these claims and because the tenants have provided evidence which disproves liability for these costs as the premise was at standard that an average, reasonable bystander would consider "reasonably tidy".

    a. There was no photographic evidence produced from the start or the end of the tenancy that proves:

        i. The tops of the wardrobes were dusty and needed cleaning;

        ii. There were some marks on the walls that needed cleaning;

        iii. There were fly spots on the ceiling;

        iv. There was dust and cobwebs throughout the property;

        v. The artificial turf in the rare garden needed weeding;

        vi. The front path needed weeding;

        vii. The weeds from the back of the house needed removing and spraying;

        viii. The floor underneath the dishwasher and the fridge freezer needed cleaning; and

        ix. There was mould in the bedroom and bathroom that needed cleaning.

26. The amounts ordered are proved.

Is the tenant responsible for the damage to the premises?

27. A landlord must prove that damage to the premises occurred during the tenancy and is more than fair wear and tear. If this is established, to avoid liability, the tenant must prove they did not carelessly or intentionally cause or permit the damage. Tenants are liable for the actions of people at the premises with their permission. See sections 40(2)(a), 41 and 49B RTA.

28. Where the damage is careless, and occurs after 27 August 2019, section 49B RTA applies. If the landlord becomes aware of the damage after 27 August, the

damage is presumed to have occurred after that date unless the tenant proves otherwise.

29. Where the damage is caused carelessly, and is covered by the landlord's insurance, the tenant's liability is limited to the lesser of the insurance excess or four weeks' rent (or four weeks' market rent in the case of a tenant paying income-related rent). See section 49B(3)(a) RTA.

30. Where the damage is careless and is not covered by the landlord's insurance, the tenant's liability is limited to four weeks' rent (or market rent). See section 49B(3)(b) RTA. Where insurance money is irrecoverable because of the tenant's conduct, the property is treated as if it is not insured against the damage. See section 49B(3A)(a) RTA.

31. Tenants are liable for the cost of repairing damage that is intentional or which results from any activity at the premises that is an imprisonable offence. This applies to anything the tenant does and anything done by a person they are responsible for. See section 49B(1) RTA.

32. Damage is intentional where a person intends to cause damage and takes the necessary steps to achieve that purpose. Damage is also intentional where a person does something, or allows a situation to continue, knowing that damage is a certainty. See *Guo v Korck* [2019] NZHC 1541.

33. The owners of the property claim the following damage was caused by the tenants during the tenancy:

    a. Bathroom flooring rotted and linoleum damaged due to gradual damage caused by leaky shower not reported by tenants;

    b. Dents in all four fridge freezer doors;

    c. Broken curtain rod in master bedroom;

    d. Kitchen cupboard handle needed replacing;

    e. Damage to the outside corner of the house;

    f. Securing ties for side fence and G clamp missing;

    g. Wall damage from 3M hooks, picture hooks, curtain rails installed that the landlord wanted removed at the end of the tenancy;

    h. Rail installed in the hallway cupboard to hang coats on that had to be removed;

    i. A padlock the tenants had installed and left had to be cut off the door under the house;

    j. Paint damage to door frames down corridor;

    k. Holes in wall in front bedroom on the left;

    l. Hole inside front door next to fuse box;

m. Door handle in lounge not working properly;

n. Door stop in lounge broken;

o. Hinge/window latch in first left bedroom needed replacing;

p. Rust stains off front of dishwasher;

q. Rangehood filters damaged;

r. Vane for air conditioner was missing;

s. Screws missing in holes in the gate hinge; and

t. Cracked kitchen window.

Bathroom flooring

34. The landlord produced a video of water hosing out of the bottom corner of the shower in the first week they had possession back of the property. It also produced photographs of the water damage to the floorboards and linoleum as well as some rotten floorboards.

35. The landlords say this damage is considered gradual damage by its insurer and therefore the repairs costs were not covered.

36. The landlord claims the leak was so bad and so noticeable that the tenants must have known about it during the tenancy as it is the only bathroom in the house and there must have been signs of water on the floor each time the tenants showered.

37. The tenants gave evidence that at no time during the tenancy did they notice excessive amounts of water on the floor, nor did they notice any signs of water under the linoleum or any signs of rotting floorboards. They say that had they noticed a leak they would have reported it to the property managers immediately and confirmed that there was no reason why they felt uncomfortable to do so.

38. I noted that the shower head in the video was pointed at the corner of the shower. The tenants say they never positioned the shower head that way and that it always remained in the middle of the shower box. This would have made a difference to how much water escaped from the corner of the shower box where the silicone had degenerated and was no longer waterproof.

39. The tenants also produced a witness statement from their cleaning lady that cleaned the house for the duration of the tenancy. The witness statement confirms that she never noticed any leaks or water related damage and that she is quite meticulous at routinely looking from these types of leak related issues in bathrooms and kitchens in homes she cleans.

40. I am satisfied that the evidence shows that it is more likely than not that there were small amounts of water coming out of the shower box during the tenancy that was not noticeable and that went under the linoleum around the toilet and to

the area of the floor that rotted over time. I do not accept that the tenants knew about the degenerated silicone and because they did not position the shower head in the corner, the issue was not as noticeable as it was to the owners on their return to living in the property. I find that there is insufficient evidence to prove on the balance of probabilities the tenants knew about the leak and the water damage and did not report it or that the tenants should be liable for the repair costs. For the reasons set out above, this claim is dismissed.

Dents in all four fridge freezer doors

41. The landlord has produced evidence that proves the tenants caused small dents in two out of the four doors on the fridge freezer. The photographs do not show the lefthand side of the fridge freezer very well, so I was unable to determine if there were dents on the left-hand side. The property managers confirmed that these dents existed but accept the photographic evidence does not prove that. They did note one small shaded spot on the bottom left and door in the exit inspection report, but I id not find the shaded spot to be compelling evidence of the damage claimed.

42. The landlord produced further evidence that proved the fridge freezer was purchased on 12 October 2018. The Inland Revenues depreciation schedule (IR265) states that the lifespan of a fridge freezer in a rental premise is 8 years. This fridge was therefore 6 years 3 months old at the end of the tenancy and had 1 year and 9 months of its expected lifespan to go.

43. I accept the evidence shows some damage caused during the tenancy. The tenants could not explain how these dents occurred and say they had pictures and magnets on the fridge so did not notice these dents during the tenancy. Equally, these dents were not identified during the routine property inspections for the same reason.

44. The landlord provided a $3,110.75 quote for replacing the four doors and a quote to replace the entire appliance for $2,399.00.

45. I find the tenants responsible for the depreciated replacement cost of the entire appliance, using the IR265 depreciation schedule and award the landlord $24.99 per month for the 1 year and 9 months of the appliances remaining expected lifespan, being a total award of $524.79.

Curtain rod in master bedroom

46. The landlord has produced photographic evidence that proves the old double curtain rod in the master bedroom was broken, leaving a large gap that could not be repaired. I award the landlord the $240.00 compensation sought for the replacement of this double curtain rod.

Plaster, paint, remove hooks, 3m stickers, hinge and padlock

47. The tenants accept liability for the costs set out in the Elite invoice for:

a. Removal of:
    i. 3M hooks,
    ii. Picture hooks (The tenant has successfully proven there were already picture hooks in second room to the right but all other picture hook claims were accepted);
    iii. Curtain rails installed that the landlord wanted removed at the end of the tenancy;
    iv. Rail installed in the hallway cupboard to hang coats on that the landlord wanted removed at the end of the tenancy;
    v. Removing the safety hooks off the bathroom vanity;
    vi. Damage to the paint on the window frame from kitchen blind cord blowing in the wind;
    vii. Hinge/window latch in first left bedroom needed replacing; and
    viii. Removing the padlock the tenants had installed on the door under the house.

48. The compensation for these claims also forms part of the $506.99 awarded from the Elite invoice. As set out in paragraph [17] above, I have awarded the landlord 20% of the total Elite invoice for all the proven claims.

49. The landlord's claim for compensation for damages set out in below are dismissed for lack of evidence proving these claims on the balance of probabilities. There was insufficient entry and exit photographs to prove that this damage was done by the tenants during the tenancy and that the damage was more than fair wear and tear:
    a. Holes in wall in front bedroom on the left (not proven);
    b. Paint damage on door frames down corridor (found to be fair wear and tear);
    c. Kitchen cupboard handle needed replacing (not proven);
    d. Hole inside front door next to fuse box (not proven);
    e. Damage to the outside corner of the house (not proven);
    f. Securing ties for side fence and G clamp missing (disproved by tenant and insufficient evidence from landlord to prove the claim);
    g. Door handle in lounge not working properly (not proven);
    h. Door stop in lounge broken (disproved by tenant because door stop fell off during tenancy as not screwed into the gib firmly enough);
    i. Rust stains off front of dishwasher (not proven);
    j. Rangehood filters damaged (not proven);

k. Vane for air conditioner (tenant proved it was missing at the start of the tenancy in his entry photographs. The property managers confirmed their entry inspection photographs disproved this claim as well);

l. Screws missing in holes in the gate hinge (found to be fair wear and tear. There was no evidence it was treated roughly by the tenants); and

m. Cracked kitchen window (disproven by tenants. They reported this happened as part of a storm on 16 September 2024. It was found cracked in the morning when the tenants woke up after the storm. There is no evidence this crack was from careless acts or omissions by the tenants or that it was intentional damage).

50. The amounts ordered are proved.

51. I have considered betterment and depreciation. The landlord should be returned to the position they would have been in had the tenant not breached their obligations and should not be better or worse off. In calculating depreciation, I have considered the age and condition of the items at the start of the tenancy and their likely useful lifespan.

Reimbursement of filing fee

52. Section 102(4) of the RTA confirms that applicants that are wholly or substantially successful in proving their claims will have their filing fee reimbursed.

53. Because [The applicant] has substantially succeeded with the claim I have reimbursed the filing fee.

Name suppression

54. The landlord applies for non-publication of its name and identifying details.

55. The Tribunal must, on the application of a party that has wholly or substantially succeeded in proceedings, order that the party's name or identifying particulars not be published, unless the Tribunal considers that publication is in the public interest or is justified because of the party's conduct or any other circumstances of the case.

56. The landlord has substantially succeeded in its proceedings. I do not consider publication is in the public interest or justified because of the landlord's conduct or any other circumstances of the case.

57. Non-publication is ordered.

58. The tenants have also applied for non-publication of their names and identifying details because publication of this information could negatively impact their ability to secure future tenancies.

59. I am satisfied that the tenants have left the premise in a reasonably clean and tidy condition at the end of the tenancy and have not intentionally caused damage to the premise and have not caused significant damage through their careless acts or omissions.

60. I do not consider publication is in the public interest or justified because of the landlord's conduct or any other circumstances of the case.

61. Non-publication is ordered.

M Pollak
20 August 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, or the failure to make an order, where the amount in dispute on appeal is less than $1000
- a final order to undertake work, or the failure to make an order, where the value of the work in dispute on appeal is 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.