[2025] NZTT 5271099

TENANCY TRIBUNAL AT MANUKAU | TE TARAIPIUNARA RETIHANGA KI MANUKAU

APPLICANT:	Kāinga Ora–Homes And Communities Landlord
RESPONDENT:	Dee Ruth Powell Tenant
TENANCY ADDRESS:	6B Tioro Lane, Mangere, Auckland 2022

ORDER

1. The tenant must carry out the following work to the premises, which must be completed by Sunday, 21 September 2025.
   a. Remove all fixtures affixed to the balcony at the rear of the property
   b. Remove all fixtures affixed to the front of the carport
   c. Remove all fixtures affixed to the rear of the carport.
2. As an alternative to compliance with Order 2, the tenant must pay the landlord $5000.00 immediately.
3. If the tenant fails to comply with either Orders 1 or 2 above, then the landlord may undertake the work and charge the tenant the costs of this work up to $2000.00. These costs may be treated as rent in arrears and enforced accordingly.

Reasons:

1. The applicant attended the hearing in Manukau. The respondent did not attend.

What is the application about?

2. This tenancy commenced on the 27th of November 2015. This application concerns whether the tenant has failed to comply with their obligations under the *Residential Tenancies Act 1986* by affixing fixtures to the premises without the landlord's consent.

3. The landlord claims that the tenant has installed fixtures to the balcony at the rear of the property and to the front and back of the carport attached to the house. The landlord provided photographs showing that the fixtures consist of corrugated plastic, corrugated iron, doors, tarpaulin, and other plastic materials attached to the balcony and carport.

4. The effect of these works has been to convert previously open outdoor areas into enclosed spaces. The landlord explained that consent for these additions was never given. They stated that they had worked with the tenant and provided notice requesting that the structures be removed, but no progress had been made. On 15 April 2025, the landlord issued the tenant a 14-day notice to remedy, requiring the removal of these structures. The landlord advised the Tribunal that the work was not completed within that period.

Was the respondent entitled to install the fixtures?

5. The applicant told me that the respondent's position was that the fixtures were in place when the tenancy commenced in 2015. The landlord provided me with photographs taken in 2018, which depict both the balcony and the carport without the fixtures attached.

6. Section 42(1) provides that a tenant cannot affix any fixture to the premises, or make any renovation, alteration, or addition, unless this is permitted by the tenancy agreement or the landlord's prior written consent has been obtained.

7. I am satisfied that the respondent has installed fixtures to the tenancy premises without the consent of the applicant.

What is the outcome?

8. The applicant has asked me to make a work order requiring the removal of these fixtures. Section 78(1)(e) empowers the Tribunal to order the removal of the fixture by way of a work order.

9. Section 78(2) requires that, if a work order is made without the consent of either party, the Tribunal must also make a monetary order as an alternative.

10. The tenant is ordered to remove the fixtures from the rear balcony and from the front and back of the carport on or before Sunday, 21 September 2025. I also make a monetary order as an alternative to compliance with the work order. The tenant must pay the landlord the sum of $5,000.00 if the fixtures are not removed by that date.

H Ben Fayed
21 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.