[2025] NZTT 5284640

TENANCY TRIBUNAL AT REMOTE LOCATION | TE TARAIPIUNARA RETIHANGA

APPLICANT: Auckland Property Management Limited As Agent For Wenxin Xu

Landlord

RESPONDENT: Matalena Pologa

Tenant

TENANCY ADDRESS: Flat 1, 111 Sturges Road, Henderson, Auckland 0612

ORDER

1. Matalena Pologa owes Auckland Property Management Limited, as agent for Wenxin Xu, a total amount of $1,656.46 ("the debt"), which is calculated as follows:

Description	Landlord	Tenant
Rent arrears to 11 August 2025	$1,260.00	
Water rates as of 28 July 2025	$369.46	
Filing fee reimbursement	$27.00	
Total payable by Tenant to Landlord	**$1,656.46**	

2. Matalena Pologa must pay both the ongoing rent and the outstanding debt as follows:
   a. By 13 weekly payments of $750.00, comprised of $630.00 towards rent and $120.00 towards the debt.
   b. By a final payment of $726.46, comprised of $630.00 for rent and $96.46 towards the remaining debt.
   c. These payments must be made every Tuesday, with the first payment due no later than 26 August 2025, and continue weekly until the debt is paid in full.

3. Payments must be allocated in the following order: current rent, then rent arrears, followed by the filing fee.
4. If the tenant fails to make any rent or arrears payment within two working days of the due date:
    a. The tenancy at Unit/Flat 1, 111 Sturges Road, Henderson, Auckland 0612 will be terminated immediately, and the landlord will be entitled to possession of the premises.
    b. The balance of the outstanding debt will become immediately payable in full.

Reasons:

The landlord's application

1. Both parties attended the hearing.
2. The landlord applied for termination of the tenancy, recovery of rent arrears, water supply charges, and reimbursement of the filing fee. The tenant attended the hearing and indicated a willingness to repay the debt to avoid immediate termination.

How much does the tenant owe?

3. The landlord provided rent records that clearly establish the rent arrears amount. The tenant accepted the figures presented.
4. The landlord also sought reimbursement for outstanding water consumption charges as of 28 July 2025. These were not disputed by the tenant and are also accepted.

Should a conditional termination order be made?

5. Under sections 55(1)(a) and section 55(1A) of the Residential Tenancies Act 1986, where rent is at least 21 days in arrears on the application date, the Tribunal must make either a final or conditional termination order.
6. The landlord requested a final termination order on the following grounds:
    a. There has been a pattern of ongoing rent arrears over the past year, raising concerns about the tenant's ability to consistently meet her obligations.

b. The property manager expressed frustration with the tenant's lack of communication and responsiveness, despite multiple attempts to make contact.

c. There was little reassurance that the tenant could prevent future arrears from arising.

7. In response, the tenant:

a. Stated that paying the arrears in full now would leave her unable to cover ongoing rent, and she therefore requested time to pay both.

b. Referred to significant personal difficulties over the past year that contributed to the arrears.

c. Apologised for her lack of communication and acknowledged the impact her conduct had on the landlord.

d. Noted that she had otherwise been a good tenant for four years, and that her difficulties were confined to the past year.

e. Explained that she is a single mother and is committed to clearing her debt to avoid homelessness for her family.

8. In making this decision, I am required to apply section 85 of the Act, which requires the Tribunal to resolve disputes in a fair and expeditious manner and according to the substantial merits and justice of the case. While legal rights are relevant, the Tribunal is not bound to apply them rigidly where it would be unjust to do so.

9. Considering the tenant’s recent willingness to pay (albeit belatedly) and her acknowledgment of responsibility, I am satisfied that she is likely to meet the repayment terms and avoid further breach. I have therefore issued a conditional termination order.

10. This order will lapse if the tenant complies fully with the repayment terms. If she breaches the order, the landlord may enforce possession within 90 days from the date of the breach, under section 64(4)(b) of the Act.

11. This decision should not be interpreted as diminishing the landlord’s legitimate frustration or the seriousness of the tenant's past conduct. The tenant should understand that this may be her final opportunity to remedy the situation, and any further non-compliance is unlikely to be tolerated.

Should the landlord be reimbursed for the filing fee?

12. As Auckland Property Management Limited, acting as agent for Wenxin Xu, has substantially succeeded in its application, the Tribunal orders reimbursement of the filing fee.

P Singh
22 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.