[2025] NZTT 5209593

TENANCY TRIBUNAL AT WAITAKERE | TE TARAIPIUNARA RETIHANGA KI WAITĀKERE

APPLICANT:	Sunshine Property Group Limited As Agent For Xiaodi Zhang Landlord
RESPONDENT:	Taylah Dannielle Ann Neale, Zane Kelly Palmer Ruifrok Tenant
TENANCY ADDRESS:	Unit/Flat 1, 37 Mildmay Road, Henderson, Auckland 0610

ORDER

1. Taylah Dannielle Ann Neale and Zane Kelly Palmer Ruifrok must pay Sunshine Property Group Limited As Agent For Xiaodi Zhang $200.00 immediately, as contribution towards damage repair and cleaning costs.

Background:

2. On 25 June 2025, I conducted the initial hearing of this application. On that date, I made an award for rent arrears up to 22 June 2025 and adjourned the balance of the application for further service. The adjournment was necessary because the respondent was not on notice of the additional claims relating to vacated damages, cleaning, and water arrears.
3. I am satisfied that the respondent has since been served, and I have heard the balance of the application. The claims before me relate to damages, cleaning, and water charges.

Relevant Legal Considerations:

Burden of proof

4. The Tribunal applies the usual civil law standards and expectations.

5. One of the central expectations relates to the onus of proof. With any claim before the Tribunal, it is the applicant who must establish the claim. Put another way, the applicant must prove the claim. If the applicant does not provide sufficient evidence and reasoning to establish the claim, then it must be dismissed.

6. The Tribunal requires the applicant to establish their claim to the balance of probabilities. That means the applicant must show that what they are claiming is more likely than not. To put this in a mathematical context, the applicant must prove their claim to just over the 50% probability mark. Again, if the claim is not established to the balance of probabilities, it must be dismissed.

Compensation

7. With any claim from a landlord for compensation for damage to the premises, the landlord must prove that damage occurred during the tenancy and that it 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 (Residential Tenancies Act 1986 (RTA), ss 49B, 66K(2)(a), and 66L).

Fair Wear and Tear

8. With any claim, it is for the landlord to establish that the damage is beyond fair wear and tear, which is an exception to tenant liability (s 49A(2) RTA).

9. Fair wear and tear has been defined as the deterioration of premises due to both reasonable use and ordinary operation of natural forces, reasonable conduct on the part of the tenant being assumed. The amount of damage is not relevant (*Accessible Properties New Zealand Ltd v McKeefry* [2019] NZTT 4114629, 4169403).

Cleaning

10. Cleaning and Rubbish Removal

11. The RTA requires that the landlord provide the premises to the tenant at the start of the tenancy in a reasonable state of cleanliness (s 45(1)(a)), and imposes an equivalent obligation on the tenant to return the premises at the end of the tenancy in a similar condition:

12. The onus of proof sits with the person making the claim. Where the landlord seeks to recover costs for cleaning and rubbish removal, the landlord must prove that the tenant breached their obligations under the RTA in how the premises were returned at the end of the tenancy. If the landlord does not establish a breach to the balance of probabilities, then the claim must be dismissed.

What the Respondent told me:

13. The respondent did not attend the hearing.

Assessment of the Evidence:

14. Despite the respondent not attending, the onus of proof remains with the applicant. I must still be satisfied on the balance of probabilities.

15. The issue I have with the claims that the property manager, Mr Alan Bai, is making is that whilst the photographs of the property show that the respondent has not left the premises in a reasonably clean and tidy condition(contrary to s 40(1)(e)(iii) RTA), and that the respondent has caused damage to the property (contrary to s 40(2)(a) RTA), there is no relation between the evidence in the photographs and the invoices and explanations that Mr Bai has provided me at the hearing for the award being sought.

16. When I asked Mr Bai about the invoices from Juan Property and Shiny Service Limited, as well as the water invoices, he responded in a way that has led me to question whether those invoices are bona fide and whether they have any evidential value.

17. For example, Mr Bai has sought costs for the replacement of light fixtures. When I asked him what was wrong with them, he told me that “they don’t work.” The photographs, however, show no evidence of impact damage or interference. In another photograph, what appears to be the slight detachment of vinyl tiles from the floor is shown which is most likely due to fair wear and tear. Mr Bai has advised that this required the replacement of the floorboards.

18. For reasons like this, I had difficulty understanding what these invoices are for, how they were formulated, and who they are from. When I asked him about the items on the invoices, he was able to offer little explanation and stated that he had never used or spoken to these contractors, who he said were engaged directly by the landlord. While some costs—such as broken windows and lawn mowing—he was able to explain and show what the damage related to, he could not account for why the charges were so high. Other costs were not credible at all, and he offered no explanation.

19. Furthermore, the Tribunal’s records contradict Mr Bai’s claim that this is the landlord’s contact. In the past month alone, Mr Bai has appeared before the Tribunal in relation to another property owned by a different landlord, and in that matter also presented invoices from Juan Property and Shiny Service as evidence of vacated damages. In addition, the last six files related to vacated claims I have reviewed from Sunshine Property Group — including 5300399, 4732129, 4639291, 5300402, 5142529, and 5188442 — have all been supported with invoices from Juan Property and Shiny Service Limited. The fact that Mr Bai attempted to deceive me by asserting that Sunshine has no relationship with

these contractors, when the records show otherwise, casts serious doubt on his credibility. Because he has lied to me in this respect, it casts a shadow over these invoices as a whole and means that I cannot place any reliance on them.

20. I asked Mr Bai whether any of the work set out in the invoices had in fact been completed, and whether he had any proof of payment in relation to them. Mr Bai told me that, in respect of the cleaning invoice, the work was carried out over a month ago, and in respect of the damage repair invoice, the work was completed approximately a week ago. He further stated that neither contractor has been paid, as the outcome of the Tribunal hearing remains unknown. This explanation is not credible. It is inherently questionable why a contractor would undertake work of this scale without any payment and with no guarantee of being paid. Regardless of the Tribunal's decision, a commercial operator engaged by a property owner to complete cleaning or repairs would reasonably expect to be paid for the work undertaken upon completion of the work.

21. In light of this, I cannot say what the invoices are for, whether any costs have been incurred, or whether any work has been completed. The compensation sought has not been proven on the balance of probabilities.

22. What is proven, however, is that the respondent has caused some damage to the property and has not left it in a reasonably clean and tidy state of repair at the end of the tenancy. For this breach of the tenant's obligations under **s** 40(1)(e)(iii) and s 40(2)(a) RTA**,** I consider it appropriate to make a nominal award of $200.00**.**

23. The final claim before me is for water charges in the amount of $172.90**.** The invoice presented shows units of water said to have been used and invoiced. There is no cost per unit. I asked Mr Bai to produce either a water rates summary or a corresponding invoice from Watercare. He was not done so.

24. I am not suggesting that there is no outstanding water owed. However, given the lack of supporting documentation, and in light of the misleading evidence presented elsewhere, I cannot place any weight on the water invoice. This claim is dismissed.

Decision:

25. The claims supported by invoices from Juan Property are dismissed**.**
26. The claims supported by invoices from Shiny Service Limited are dismissed.
27. The claim for water rates is dismissed.
28. A nominal award of $200.00 is made against the respondent to reflect proven damage and failure to leave the premises reasonably clean and tidy.

H Ben Fayed
23 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.