**[2025] NZTT 5231035, 5285619**

**TENANCY TRIBUNAL AT [Event location suppressed]**

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| APPLICANT: | [First tenant] and Tyrone Bingle<br>Tenant |
| RESPONDENT: | LREMGMT Limited (T/A Leithbridge Property Management) - as Agent for Patrick and Noeleen Feeney<br>Landlord |
| TENANCY ADDRESS: | Flat 5, 24 Mansfield Avenue, St Albans, Christchurch 8014 |

## ORDER

1. An application for suppression has been made in this case, and the Tribunal orders suppression of the first named tenant's name and identifying details.
2. [First tenant] and Tyrone Bingle must pay LREMGMT Limited (T/A Leithbridge Property Management) - as Agent for Patrick and Noeleen Feeney $162.25 being $135.25 break lease fees and $27 filing fee immediately.
3. These applications are otherwise dismissed.

**Reasons:**

1. One of the tenants attended the hearing with his support person. I have suppressed his name. I will call him the tenant in this decision. Mr Bingle did not attend.
2. Mr Lethbridge and the property manager Mandy Shaw attended for the landlord.
3. The following background is taken from the Tribunal's order made on 19 June 2025 which adjourned the applications.

## Background

4. The tenant filed his claim first on the 9 April 2025. He would like the whole of the bond of $1900 to be paid to him.

5. The landlord filed their cross application on the 12 June 2025 seeking the balance owed to them of $675.98 for the lease break fees.

6. The tenant and Mr Bingle were flatmates, they are both recorded as tenants on the fixed term tenancy agreement dated 16 August 2024.

7. The fixed term was to commence on the 28 August 2024 and end on the 16 January 2025.

8. Sometime in November, the two tenants had a falling out with each other. Each tenant told the landlord that the cause of the falling out was the other's behaviour.

9. The landlord agreed to release the tenants from their fixed term tenancy on the basis that they were liable for rent until a new tenant was found, and that they would pay the costs of reletting. Both tenants signed a break lease agreement with the landlord dated 5 December 2024 that confirmed that they would be liable for rent until new tenants were found and for the break fees.

10. The tenancy ended on the 16 January 2025 after a new tenant was found. The tenant says that before that he paid all the rent, despite not living at the property, and he removed his items. The tenant says he had to wait for Mr Bingle to leave the premises before he could clean the premises and remove his (the tenant's) items, which he did.

11. The tenant says that Mr Bingle left items at the property, which had to be disposed of by the landlord.

12. The tenant feels aggrieved because he says he has paid more than his share of the rent, and costs and wants the bond returned to him.

13. The landlord has claimed the bond via a one-party application for the bond. This allows the landlord to make an application for the bond to the Bond Centre who notifies the tenant of the application and then if they receive no response, the bond money is paid out to the landlord.

14. As a result of receiving the bond money, the landlord decided not to pursue the balance they say is owed by the tenants of $675.98. But now that the tenant has filed a claim, they wish to pursue this claim and seek payment of the balance of the break lease costs of $675.98.

15. The tenant disputes that the landlord was entitled to the rent, cleaning costs disposal costs and the break lease fees.

## Discussion and Decision

16. I note that the previous decision records that the Tribunal discussed the principle that joint tenants are jointly and severally liable and what that means. I discussed that again with the tenant and explained that as one of the joint tenants, he is fully liable to pay the rent and fully responsible for all other obligations under the tenancy. The same applies, of course, to Mr Bingle.

17. What this means is that where one of two or more tenants has not paid their share of the rent (as agreed between the tenants) or not performed their obligations under the tenancy, such as failing to remove rubbish at the end of the tenancy, each tenant is fully liable to the landlord regardless of their liability as between the tenants.

18. The Tenancy Tribunal also explained at the previous hearing that it does not decide claims between tenants and tenants or landlords and landlords. The only claims it can decide on are between tenants and landlords. That means that disputes between tenants as to who hasn't paid their share of the rent or who hasn't complied with other tenant obligations cannot be decided by this Tribunal.

19. That does not mean that one tenant cannot make a claim against another for a contribution to rent or reimbursement of liabilities incurred. It means simply that such claims must be made in another place which, usually, will be the Disputes Tribunal.

20. If follows from these principles that the tenant cannot dispute rent and expenses if they are proved to be due under the tenancy agreement and the bond is available to the landlord to cover them regardless of who paid the bond.

21. There is no real dispute that the rent is due as claimed. It remained payable until the tenancy ended when the landlord granted a new tenancy of the premises. The landlord has incurred the cost of rubbish removal. That charge is plainly reasonable.

22. That just leaves the claim for the remaining expenses in relation to the reletting.

23. That is governed by s44A of the Residential Tenancies Act 1986 (the Act). Relevantly, it allows landlords to recover from the outgoing tenant any expenses reasonably incurred by the landlord in respect of the termination.

24. The respondent has provided an account of the expenses they claim from the tenants. I asked to see the management agreement between it and the landlord because it is the landlord's liability for the expenses that the Tribunal must consider. The landlord cannot recover expenses that it is not legally liable to pay.

25. Mr Leithbridge argued that his company should be treated as the landlord in this situation.

26. Section 2 of the Act defines "landlord" and states that it includes, where appropriate, an agent of the landlord. The question is, therefore, is it appropriate in this situation to treat the agent as the landlord?

27. It is well established that under the general principles of agency law, the agent can be treated as the principal where, for example, the agent has not disclosed that they are an agent or has not disclosed the identity of the principal. There are other circumstances where the agent can sue and be sued.

28. In this case those agency rules don't apply because in the tenancy agreement the respondent is stated to be the agent, and the principal (the landlord) is named.

29. Is there any other reason for the respondent to be treated as the landlord? I think not. In my view, parliament's intention was to ensure that the tenant's liability was limited to those expenses that the landlord, as opposed to the landlord's agent, has incurred. Landlords and property managers are free to agree their own terms under a management agreement. Those terms might allow the agent to charge the landlord fully for every action taken in relation to reletting the premises. The only limit on the recovery of those expenses by the landlord would then be whether the expenses are reasonable in amount.

30. Where the management agreement limits the actions that the agent can charge to the landlord, there is no reason to make the tenant liable for more than the landlord is liable to pay. To do so would make the tenant liable to the agent when the agent is not a party to the tenancy agreement. Otherwise, the agent would benefit at the expense of the tenant, and I can see no justification for that. The agent has agreed terms with the landlord and there is no injustice in holding them to those terms.

31. After considering the management agreement, I find that the landlord is liable to pay $115 for advertising, $23 for each credit check and $546.25 as a letting fee. There were three credit checks and therefore the total amount payable by the landlord and therefore recoverable from the tenants is $730.25.

32. The landlord has received $595 from the bond towards the reletting fees and so $135.25 remains due. I have awarded that to the landlord and the $27 filing fee because the landlord has had some success.

33. I have no reason to doubt the tenant's account of what has happened here. The other tenant has not attended to refute it. It would, therefore, be harsh for the tenant's name to be published. I have therefore granted him name suppression.

R Armstrong
26 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.

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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.