[2025] NZTT 5185492

TENANCY TRIBUNAL AT REMOTE LOCATION | TE TARAIPIUNARA RETIHANGA

APPLICANT:	The Rent Shop Limited As Agent For Michael & Jackie Freeman / Coutts Landlord
RESPONDENT:	Stewart Powers Tenant
TENANCY ADDRESS:	Unit/Flat 14, 50 Livingstone Street, Westmere, Auckland 1022

ORDER

1. Stewart Powers must pay The Rent Shop Limited As Agent For Michael & Jackie Freeman / Coutts $1,997.62 immediately, calculated as shown in table below.

Description	**Landlord**	**Tenant**
Rent arrears to 27 March 2025	$5,761.43	
Water rates	$319.19	
Repairs: (insurance excess)	$250.00	
Filing fee reimbursement	$27.00	
Total award	**$6,357.62**	
Bond	$4,360.00	
Total payable by Tenant to Landlord	**$1,997.62**	

2. The Bond Centre is to pay the bond of $4,360.00 (3347261-010) to The Rent Shop Limited As Agent For Michael & Jackie Freeman / Coutts immediately.

Reasons:

1. The landlord attended the hearing on 28 August 2025. The tenant did not.
2. On 27 March 2024, the tenant entered into a fixed-term tenancy with the landlord. The tenancy ended on 27 March 2025. The landlord claims the tenant stopped paying their rent and water rates invoices towards the end of the tenancy. The landlord also claims the tenant damaged the walls inside the premises. The issues I must determine are:

    a. How much does the tenant owe in rent arrears?

    b. How much does the tenant owe in outstanding water rates?

    c. Is the tenant responsible for damaging the walls during the tenancy?

3. As the applicant, the landlord must prove their claim to the civil law standard of proof, on the balance of probabilities.

How much does the tenant owe in rent arrears?

4. The landlord gave evidence the tenancy ended on 27 March 2025, which is the end of the fixed term. I accept the landlord's evidence on this point.
5. The landlord submitted a rent summary, which records rent arrears as being $5,761.43 up to 27 March 2025. I accept the landlord's rent summary as accurate and find the tenant owes $5,761.43 in rent arrears.

How much does the tenant owe in outstanding water rates?

6. The landlord submitted copies of original invoices from Watercare, together with a summary of payments received from the tenant. This evidence proves the tenant owes $319.19 in outstanding water rates.

Is the tenant responsible for damaging the walls during the tenancy?

The law

7. 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.[1]

[1] Residential Tenancies Act 1986, sections 40(2)(a), 41 and 49B.

8. 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.[2]

9. 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).[3]

10. 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).[4] Where insurance money is irrecoverable because of the tenant's conduct, the property is treated as if it is not insured against the damage.[5]

11. 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 applied to anything the tenant does and anything done by a person they are responsible for.[6]

12. 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.[7]

Analysis

13. The landlord claims the premises were renovated just before the tenancy began, including internal painting. The photographs taken at the beginning of the tenancy support this, as there are no marks on the walls. In contrast, the photographs taken at the end of the tenancy show multiple marks to the walls throughout the premises. The tenant appears to have attempted multiple patch repairs in a different coloured paint. The patch repairs are poorly done and obvious because they have been completed in a different coloured paint. They are significant in number and are apparent throughout the entire premises.

14. On the balance of probabilities, I find the tenant damaged the walls during the tenancy. The damage is beyond fair wear and tear, and the tenant has not disproved liability.

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[2] See discussion in *Accessible Properties New Zealand Ltd v McKeefry* [2019] NZTT 4114629, 4169403.
[3] Residential Tenancies Act 1986, section 49B(3)(a).
[4] Residential Tenancies Act 1986, section 49B(3)(b).
[5] Residential Tenancies Act 1986, section 49B(3A)(a).
[6] Residential Tenancies Act 1986, section 49B(1).
[7] See *Guo v Korck* [2019] NZHC 1541.

15. The landlord's insurer paid for the repairs and the landlord only seeks compensation of $250.00 for the excess paid.
16. The landlord's claim for compensation is granted for $250.00.

Filing fee

17. Because The Rent Shop Limited As Agent For Michael & Jackie Freeman / Coutts has wholly succeeded with the claim I must reimburse the filing fee.

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28 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.