TENANCY TRIBUNAL AT WHANGANUI | TE TARAIPIUNARA RETIHANGA KI WHANGANUI

APPLICANT: Inspire Real Estate Limited As Agent For Fleming Family Trust

Landlord

RESPONDENT: Atarie Maihana

Tenant

TENANCY ADDRESS: 101 Talbot Street, Whanganui East, Whanganui 4500

ORDER

1. Atarie Maihana must pay Inspire Real Estate Limited As Agent For Fleming Family Trust $2,667.65 immediately, calculated as shown in table below.
2. The Bond Centre is to pay the bond of $1,680.00 (3111202-018) to Inspire Real Estate Limited As Agent For Fleming Family Trust immediately.

Description	**Landlord**
Rent arrears	$1,260.00
Lock/key replacement	$150.65
Rubbish removal	$600.00
Cleaning	$450.00
Cleaning: oven	$100.00
Lawns and Garden work	$100.00
Window repairs	$360.00
Repairs: walls and doors	$900.00
Replace furnishings: curtains	$400.00
Filing fee reimbursement	$27.00
Total award	**$4,347.65**
Bond	$1,680.00
Total payable by Tenant to Landlord	**$2,667.65**

Reasons:

1. The landlord attended the hearing.
2. The landlord has applied for rent arrears, compensation, refund of the bond, and reimbursement of the filing fee following the end of the tenancy.

How much is owed for rent?

3. The tenancy ended on 25 February 2025. The landlord provided rent records which prove the amount owing at the end of the tenancy.

Did the tenant comply with their obligations at the end of the tenancy?

4. At the end of the tenancy the tenant must leave the premises reasonably clean and tidy, remove all rubbish, return all keys and security devices, and leave all chattels provided for their benefit. See section 40(1)(e)(ii)-(v) Residential Tenancies Act 1986.
5. The landlord provided photographic evidence that the tenant did not leave the premises reasonably clean and tidy, and did not remove all rubbish.
6. The landlord's claim did not differentiate between the various tasks it claims to have completed. No receipt was supplied for a sum claimed to have been paid to a Jerrod Broughton for "remove furniture, rubbish and lawn." It is clear from the photographic evidence that the work was required and so amounts have been awarded based on invoices which the Tribunal regularly sees in this area for bringing the property up to the required, reasonably clean and tidy standard.
7. The tenant did not return the keys. The landlord is entitled to replace the locks and the sum is awarded for which an invoice has been submitted.
8. The landlord also claimed a further sum for which only a quote was supplied, together with claims for additional keys. These amounts are not awarded. The quote does not prove loss as no amount has been paid and there is no explanation as to why two contractors were engaged to replace the locks. The new locks will have come with keys and there was no explanation as to why the landlord would be entitled to more keys. These claims are dismissed.
9. The landlord claimed that the following chattels were missing at the end of the tenancy:
    a. Lightshades.
    b. Window latches.
    c. Parts of the shower.
    d. Curtains.

10. The evidence provided only confirms that four curtains were missing from the property. No evidence of their age was provided, although the photographs from the entry inspection indicate that they were in good condition. A sum has been awarded to reflect a small amount of depreciation.

11. The claims for missing lightshades, latches and the shower, for which no evidence was supplied, are dismissed.

Is the tenant responsible for the damage to the premises?

12. 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. See sections 40(2)(a), 41 and 49B RTA.

13. 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). See section 49B(3)(a) RTA.

14. 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). See section 49B(3)(b) RTA. Where insurance money is irrecoverable because of the tenant's conduct, the property is treated as if it is not insured against the damage. See section 49B(3A)(a) RTA.

15. 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 applies to anything the tenant does and anything done by a person they are responsible for. See section 49B(1) RTA.

16. 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. See *Guo v Korck* [2019] NZHC 1541.

17. The landlord claimed compensation for the following damage it claimed was caused during the tenancy:

    a. 19 holes in walls.

    b. Four broken windows.

    c. Damaged acrylic sheeting in the porch.

    d. Replacement of the carpet which it was claimed was damaged by dogs.

    e. A door handle required repair and a door rehanging.

18. The photographic evidence shows eight holes, two broken windows in the back door and the lounge. The entry inspection shows that at the start of the tenancy, the alcove window had cracks in it and the acrylic sheeting was already damaged. These claims which are unsupported by evidence have not been proven and so are dismissed.

19. There was no evidence of damage to the carpet nor of any attempt to repair the damage by cleaning. There was no evidence that new carpet had been installed and only a quote was provided which is not evidence of loss. The carpet claim is dismissed.

20. The remaining damage is more than fair wear and tear, and the tenant has not disproved liability for the damage. From its scale and nature, the damage was intentional.

21. The landlord has claimed for numerous items including travel from Nelson to the property, a ferry ticket for a motorhome or campervan, accommodation, food and “incidentals”, a pair of work shorts, and fuel,. It has also claimed for 16 days work at eight hours a day at $50 per hour. No break down or diary of the work completed was provided.

22. The landlord has chosen to own a rental property at a distance from its home. That is its choice. The landlord is not entitled to reimbursement for these expenses which are an incident of running its business as a residential landlord. These claims are dismissed.

23. The Tribunal has awarded sums based on invoices which it sees for similar work in this area. Compensation is awarded only for damage supported by photographic evidence as follows:

    a. Two broken windows.

    b. Six holes in walls.

    c. Two holes in doors.

    d. One door handle missing and requiring rehanging.

24. The amounts ordered are proved.

25. I have considered betterment and depreciation. The landlord should be returned to the position they would have been in had the tenant not breached their obligations, and should not be better or worse off. In considering depreciation, I have considered the age and condition of the items at the start of the tenancy and their likely useful lifespan based on the photographic evidence provided.

26. Because Inspire Real Estate Limited As Agent For Fleming Family Trust has substantially succeeded with the claim I have reimbursed the filing fee.

G Baker
29 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.