[2025] NZTT 5261385

TENANCY TRIBUNAL AT [Event location suppressed]

APPLICANT:	Holmwood Real Estate Limited As Agent For Sophie Davies And Rob Lord Landlord
RESPONDENT:	[The respondent/s] Tenant
TENANCY ADDRESS:	52 William Street, Prebbleton, Prebbleton 7604

ORDER

1. There is an order for non-publication of the names of the tenants.
2. The landlord's claims are dismissed.
3. The Bond Centre is to refund the bond of $2,480 held under bond number [6472136-007], to the tenant(s) [[The respondent/s]

Reasons:

1. Both parties attended the hearing, the landlord represented by the property manager who had looked after the premises until the owners took possession on Friday 28 March 2025.
2. The parties agreed that a third tenant named on the initial tenancy agreement was no longer a tenant, had "dropped off" the agreement, and is no longer a party to the tenancy.
3. The landlord has applied for $2,743.45 compensation and reimbursement of the filing fee following the end of the tenancy. The items claimed are:
    a. Cleaning
    b. Damage to log burner
    c. Damage to door

d. Missing mower.

4. They have sought part payment out of the bond of $2480.00.

When did the tenancy terminate?

5. The end of this tenancy was unusual. On 10 March 2025 there was a fire at the premises.

6. On 12 March, a 90-day notice was given to vacate, stating that the owners were moving into the premises. On the same day, the property manager told the tenants via text that no-one should be staying at the premises as it would not be safe until it has been cleaned and fixed. It was said that the premises must not be entered in any circumstances because there was asbestos present.

7. Then on 20 March the tenants were given a 7-day notice to vacate under section 59 which allows a landlord to give 7 days' notice where the premises have been damaged and rendered uninhabitable. The tenants were informed that it was not safe to enter the site to uplift any belongings because there was asbestos on the site.

8. On 25 March the tenants were asked when they would have their belongings gone.

9. On Wednesday 26 March the property manager sent a text telling the tenants that they had to have all their belongings removed by the next day as the keys had to be returned on a Friday.

10. At the hearing the parties agreed that the last date of the tenancy was 12 March. In fact, based on the texts and information provided, the last day of the tenancy was Friday 28 March when the keys were returned and possession handed back to the landlord. Rent was not payable up to that date because the tenants could not stay there.

Tenant's obligations

11. At the end of the tenancy the tenant must leave the premises reasonably clean and tidy, remove all rubbish, and leave all chattels provided for their benefit. See section 40(1)(e)Residential Tenancies Act 1986 (**the Act**).

12. There was a period of 2 weeks, between 12 March and 25 March when the tenants were told not to access the property until it had been cleaned by ChemDry. There was a concern that asbestos had been disturbed and therefore there was a potential health risk. In fact, the tenants did come and go removing items. Then on 26 March the tenants were given two days' notice to remove everything. That was their opportunity to clean the premises.

13. The landlord said that the cleaning required was in the bathroom and kitchen, including the oven. Photos showed two fridge door shelves, two drawers and a

cupboard that appear not to have been wiped out. The oven had not been cleaned. A quote of $250 was provided.

14. The tenant had offered to go back and clean the oven, but had been unable to because the owners had moved back in.

15. At the hearing, the property manager did not know the actual costs of cleaning and was given an opportunity to provide further evidence from the owners before 4pm the day of the hearing.

16. The owners advised that they had done the cleaning themselves, and it had taken two of them 6 hours at $30 an hour and sought $360.

17. In the ordinary course of events, the minimum period available to a tenant to clean out a property is 21 days after they have given notice.[1] In fact, they may have already started some tasks, in preparation of giving notice. The minimum period of notice a landlord may usually give is 42 days.[2]

18. Based on acknowledgements made by the tenant, it appears that the oven had not been cleaned, but I have decided not to order any amount for cleaning for the following reasons:

19. The tenant is not required to leave the premises in a pristine condition, ready for the next tenant. They simply must leave the premises reasonably clean and tidy. The landlord did not file pictures showing the views of the rooms at the start and end of the tenancy. That made it difficult to assess whether the premises were left “reasonably clean and tidy.”

20. Although the tenants acknowledge that they had not cleaned the oven, the circumstances surrounding the termination of this tenancy did not provide them with adequate opportunity to fulfil the usual obligations expected of a tenant. It would not be reasonable to order them to pay for cleaning.

Is the tenant responsible for the cost of damage to the premises?

21. The landlord sought compensation of $550 for a broken glass in a fireplace and $1,613.45 for removal of 3m hooks from a wall, plastering and painting and for filling and painting a door. This was based on quotes.

22. 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.

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[1] Section 50(2A) of the Act.
[2] Section 50(1).

23. The tenants agreed they had put hooks on the walls, but denied damaging the door. They wondered if the firefighters had caused this, but the property manger said that the firefighters had told her they had not done so. They accepted responsibility for the glass in the fireplace.

24. There was no evidence that the owners had paid the amounts quoted for the damage. They were given an opportunity to provide invoices or receipts by 4pm the day of the hearing.

25. It transpired that the fireplace has not been repaired. They said they are waiting to get the money from the tenants. They had repaired the walls and door themselves, but provided no evidence of the cost.

26. As explained at the hearing, it is not reasonable to order compensation for an expense that has not been incurred. They may obtain the repairs at a lesser price or not undertake them at all. Therefore I order no compensation for the damage claimed.

27. I have not made a finding about whether the tenants were responsible for damage to the door, but in any event, I am unable to determine the actual cost of the repair based on the information provided at the hearing.

Lawn mower

28. The landlords say the lawn mower was missing at the end of the tenancy. They claim the cost of a second-hand mower. The landlord has not replaced it yet.

29. The lawn mower is not listed as a chattel on the tenancy agreement. Therefore, the Tribunal does not have jurisdiction over this matter. If the landlords believe the tenants have stolen the lawnmower, they may pursue other avenues.

30. I add that is unfortunate that the parties did not attend the premises for an exit inspection on 28 March. If that had happened, it would have been more straightforward to determine if the lawnmower was missing at the end of the tenancy.

31. Accordingly, the landlord's claims are dismissed.

32. Because the tenants have been successful, there is an order for non-publication of their names.

Bond

33. The bond centre is to release the bond to the tenants.

T Baker
05 September 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.