[2025] NZTT 5302222

TENANCY TRIBUNAL AT [Event location suppressed]

APPLICANT:	[The applicant/s] Former occupier
RESPONDENT:	[The respondent/s] Tenant
TENANCY ADDRESS:	Unit/Flat 2, 45 Edinburgh Street, Spreydon, Christchurch 8024

ORDER

1. The Tribunal suppresses the names and identifying details of both parties.
2. The Tribunal has no jurisdiction.
3. The application is dismissed.

Reasons:

1. Both parties attended the hearing.
2. The former occupier was in possession as a flatmate of the tenant between 20 May 2025 and 3 June 2025. He answered an advertisement for a room and board placed by the tenant.
3. The tenant is in a tenancy agreement with a social housing provider.
4. The arrangement between the parties broke down quickly and the former occupier vacated the premises which comprised 2 bedrooms and shared facilities.

5. The former occupier has applied for costs against the tenant for alleged breaches of his privacy and harassment. He also seeks an order preventing the tenant from offering a room/board to anyone again.

6. It is implicit from the former occupier's application that the arrangement was one of boarder or flatmate, not as landlord and tenant.

7. The Residential Tenancies Act 1986 (RTA) does not apply to all tenancies; some are excluded.

8. Section 5(1)(n) RTA excludes a tenancy

> Where the premises, not being a boarding house, continue to be used, during the tenancy, principally as a place of residence by the landlord or owner of the premises or by any member of the landlord's or owner's family.

9. If the former occupier assets that the tenant was his landlord, section 5(1)(n) RTA would exclude the tenancy as the premises are used by the tenant (the asserted landlord) principally as her place of residence.

10. An almost identical fact situation came before the Tribunal and was decided on 26 February 2024. – see *Cavanagh v Jackson* [2024] NZTT 4701869. The Tribunal found that the tenancy was excluded under section 5(1)(n) RTA. The tenant appealed that decision first to the District Court[1] and then to the High Court[2]. Both Courts upheld the Tribunal's decision.

11. As the facts of this case are identical to those considered by the Tribunal, the District Court and the High Court in *Cavanagh*, the application must be and is dismissed. The Tribunal has no jurisdiction to determine the former occupier's claims.

12. The correct forum for this dispute is the Disputes Tribunal.

13. Given the nature of this dispute and to protect the confidentiality of the Disputes Tribunal process, I have suppressed the names of both parties.

J Greene
05 September 2025

[1] Cavanagh v Jackson [2024] NZDC 26207
[2] Cavanagh v Jackson [2025] NZHC 14911

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.