TENANCY TRIBUNAL AT KAIKOHE | TE TARAIPIUNARA RETIHANGA KI KAIKOHE

APPLICANT: Naumai Maria Paterson

Tenant

RESPONDENT: Ray Taylor & Anne Taylor

Megan Laura Taylor

Landlord

TENANCY ADDRESS: 12 Hospital Road, Kawakawa 0210

ORDER

1. Anne Taylor and Ray Taylor must pay Naumai Maria Paterson $5,650.00 immediately, calculated as shown in table below.

Description	**Landlord**	**Tenant**
Exemplary damages: Failure to lodge bond		$350.00
Exemplary damages: Failure to maintain the premises in a reasonable state of repair		$5,400.00
Filing fee		$27.00
General damages: Interference with reasonable peace, comfort and privacy of neighbours	$100.00	
Filing fee	$27.00	
Totals	**$127.00**	**$5,777.00**
Total payable by Landlord to Tenant		**$5,650.00**

2. Megan Laura Taylor must pay Naumai Maria Patersonn $750.00 immediately, calculated as shown in table below.

Description	**Landlord**	**Tenant**
Compensation: Breach of quiet enjoyment (January 2025 incident)		$500.00

Compensation: Breach of quiet enjoyment (threat to terminate tenancy)	$250.00
Total payable by Landlord to Tenant	**$750.00**

3. The Bond Centre is to pay the bond of $540.00 (3522354-002) to Naumai Paterson immediately

Reasons:

Background

1. The tenancy began in August 2001. The original tenancy agreement names Naumai Paterson and her daughters as tenants.
2. The parties entered into new tenancy agreements in 2013, 2015, 2017, and 2023. The circumstances around these agreements is discussed in more detail below. The 2023 agreement named Megan Taylor, Mr & Mrs Taylor's daughter, as landlord.
3. Ms Paterson filed a Tenancy Tribunal application on 22 January 2025.
4. A Case Conference hearing took place on 17 April 2025.
5. Mr & Mrs Taylor filed a cross-application on 11 May 2025.
6. The substantive hearing took place before me in Kaikohe on 8 August 2025. Both parties participated in the hearing.

Limitations

7. The Limitation Act 2010 applies to the Tenancy Tribunal's jurisdiction.[1]
8. The Limitation Act 2010 states that a money claim must brought within six years of the "date of the act or omission on which the claim is based".[2]
9. The Residential Tenancies Act 1986 ("RTA") also has a specific limitation period on claims for exemplary damages. Claims for exemplary damages must be brought within 12 months of the commission of the relevant unlawful act. There is an exception for claims for exemplary damages for the unlawful act of a landlord failing to lodge the bond centre within 23 working days of receipt, and for the unlawful act of a landlord failing to keep a record of the amount of the bond. Those claims may be brought within 12 months of the date of termination of the tenancy.

[1] Section 77(1) Residential Tenancies Act 1986 ("RTA")
[2] Section 11(1) Limitation Act 2010

10. Some of the claims brought by the tenant and the landlords in these applications are time-barred according to these provisions. This is discussed in more detail below.

Tenancy agreements

11. Mr & Mrs Taylor required Ms Paterson to sign a new tenancy agreement each time that they wanted to increase the rent.

12. I was provided with copies of the 2017 and 2023 agreements. The 2017 agreement refers to prior agreements in 2013 and 2015.

13. Mr & Mrs Taylor were not aware that it is not necessary to enter into a new written agreement just to increase the rent. A landlord can increase the rent by giving the tenant 60 days' notice in writing.[3]

14. There are several unintended consequences from Mr & Mrs Taylor's approach:

    a. Ms Paterson did not receive 60 days' notice in writing of the rent increases. Mr & Mrs Taylor applied the new rent rate from the dates that the agreements were signed.

    b. All of the written agreements were drafted on a now very outdated Tenancy Services template, which does not include an insulation statement, healthy homes statement, or an insurance statement. It has been compulsory for landlords to include these statements since 2016 in the case of insulation statements, and 2019 in the case of healthy homes and insurance statements.[4]

    c. The date for compliance with the healthy homes standards depends on when the tenancy began. The 2023 agreement included a change of landlord as well as a change of rent. This raises a question as to whether a new tenancy was created in 2023, which would then place an obligation on the landlord to ensure that the premises complied with the healthy homes standards within 120 days of the start date of that tenancy. This issue is addressed in more detail below.

15. Ms Paterson's submission includes an argument that the act of naming Megan Taylor on the tenancy agreement was a breach of section 137(1)(b) RTA. This section states that:

> No person shall make any contract for the purpose of evading or preventing the operation of any part of this Act.

16. A breach of this duty has the following consequences:

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[3] Section 24 RTA
[4] Section 13A RTA

a. The contract is of no effect; and

b. All money paid by the tenant pursuant to that contract can be recovered from the landlord.

17. Ms Paterson's submission argues that Mr & Mrs Clark put the agreement in their daughter's name to attempt to avoid their maintenance and healthy homes obligations. Ms Paterson argued that Mr & Mrs Clark remained the landlord in fact, because she continued to pay rent into their account and not to Megan Clark.

18. Having heard from Mr & Mrs Clark and from Megan Clark, I am satisfied that this was not the purpose of the 2023 contract.

19. Mr & Mrs Clark explained that they decided to pass the property on to their daughter. They remained the point of contact because Megan lived in Canada.

20. Again, it was not necessary for Mr & Mrs Clark to require Ms Paterson to enter into a new tenancy agreement in 2023. They could have simply sent the tenant notice of rent increase and notice of the change of landlord.[5]

21. However, I accept that these were the reasons why the landlords created the 2023 agreement. It was not for the purpose of attempting to avoid their legal duties as landlord. Therefore there is no proven breach of section 137(1)(b).

Tenant application

Overview

22. In March 2023, Ms Paterson contacted Tenancy Services for assistance with tenancy related issues.

23. In April 2023, Tenancy Services' Compliance & Investigations Team (TCIT) carried out a site inspection.

24. Ms Paterson provided a detailed "tenancy application letter" in her written submissions to the Tribunal, setting out the issues/claims that she wanted the Tribunal to address.

25. I used that document as the basis for the structure of the hearing on 8 August, and for this decision.

Exemplary damages claims

26. Paragraph 10 of the application letter lists out Ms Paterson's exemplary damages claims.

[5] Section 15 RTA

27. The following claims are either not proven or are timebarred:

    a. Failing to provide receipt for rent. The obligation to provide a receipt does not apply to rent that is paid from the tenant's bank account, or directly into the landlord's bank account, or from any benefit to which the tenant is entitled.[6] There are no proven instances of rent payments within 12-months of the date of this application by any other means.

    b. Landlord seizing or disposing of tenant's goods. This relates to an incident that occurred in 2015, well beyond the 12-month limit for exemplary damages claims. It is unclear whether Ms Paterson also has a compensation claim in respect of this incident, but for completeness I will note that any compensation claim is also timebarred as the claim was filed more than six years after this incident occurred.

    c. Harassment of neighbour section 40(3A)(d). This section of the RTA relates to tenant's obligations, not landlord's obligations.

    d. Unlawful entry. There are no proven instances of the landlord entering the premises within 12 months of the date of this application.

    e. Failing to notify the tenant of the results of a contamination test. This pertains to an asbestos test that the landlord had done in early 2023. The claim for exemplary damages cannot succeed because:

        i. Asbestos is not methamphetamine or a substance prescribed as being a contaminant for the purposes of the RTA.[7]

        ii. Even if there was an obligation to provide the results to the tenant, the obligation would have taken effect in early 2024, which is more than 12 months before this application was filed.

Failure to pay the bond to the Bond Centre

28. Ms Paterson paid a bond of $540.00 at the beginning of the tenancy.

29. The bond was not paid to the Bond Centre until 2023.

30. Landlords must pay any bond to the Bond Centre within 23-working days of receipt.

31. Landlords had this duty in 2001 when this tenancy began, and they still have it to this day.

32. Failure to pay the bond to the Bond Centre within 23-working days is an unlawful act. Exemplary damages of up to $1,500.00 can apply.

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[6] Section 29(4) RTA
[7] Section 2 RTA definition of "contaminant".

33. In considering an award of exemplary damages, the Tribunal must have regard to:[8]

    a. The intention of the person who committed the unlawful act; and

    b. The effect of the unlawful act; and

    c. The interests of the person against whom the act was committed; and

    d. The public interest.

34. In this instance:

    a. I accept Mr & Mrs Clark's statement that they were unaware of this legal duty. They paid the bond to the Bond Centre when it was brought to their attention.

    b. The effect on Ms Paterson was minimal, but it did add to her concerns about her landlords.

    c. There is a genuine and legitimate public interest in ensuring that the bond is held by an independent third party.

35. The Tribunal's usual approach to exemplary damages is to award one-third of the maximum unless there are aggravating or mitigating factors in play.[9]

36. In this instance, it is a mitigating factor that Mr & Mrs Clark were genuinely unaware of the obligation to forward the bond, and that they did ultimately forward it.

37. I will award exemplary damages of $350.00.

Failure to appoint an agent

38. A landlord who is out of New Zealand for longer than 21 consecutive days must ensure that they have an agent in New Zealand.[10] A breach of this duty is an unlawful act.

39. Megan Taylor became the landlord in February 2023. Ms Taylor resides in Canada.

40. Ms Paterson seeks exemplary damages under this heading. I note that Ms Paterson's claim here is in tension with her argument that the February 2023 agreement was simply an attempt by Mr & Mrs Clark to avoid their responsibilities as landlords and that they remained the landlord in fact, despite this agreement. In any event, I have made a finding that Ms Paterson's previous argument is not persuasive, and that Megan Clark did become

[8] Section 109 RTA
[9] *Wellington Property Management Ltd v Hardie* [2022] NZTT 4399281 4374781
[10] Section 16A(1) RTA

landlord in February 2023. She is based overseas and was therefore required to have an agent in New Zealand.

41. I also note that this obligation first arose in February 2023, which is more than 12-months before this application was filed. However, it is arguable that this is a continuing breach and that the landlord remained in breach until the end of the tenancy, in which case the claim for exemplary damages is not time-barred. I will address the claim on that basis.

42. Ms Paterson said that she was unsure who to contact about repairs or other tenancy issues. She recalled an occasion when she asked Mr & Mrs Clark for help with a broken water pipe at the property and they both told her that they couldn't help because they were no longer the landlords.

43. Mr & Mrs Clark said that it was clearly understood that they were the local contacts for any maintenance issues. They denied telling Ms Paterson that they could not help with the water leak. They said that they found out about the leak from someone else in the neighbourhood (not Ms Paterson) and they attended to it promptly.

44. I was not provided with any evidence by either party about the water leak incident.

45. There is nothing in writing from Mr & Mrs Clark, or from Megan Clark, to Ms Paterson in February 2023, letting her know that she should continue to contact Mr & Mrs Clark about any maintenance issues. In hindsight, it would have been wise to put this in writing, although I accept that, at the time, Mr & Mrs Clark probably considered this as being so obvious that it went without saying.

46. I do not find Ms Paterson's statement that she was confused about who to contact convincing, and her claim that Mr & Mrs Clark refused to deal with the water leak problem is disputed and not proven.

47. There was a technical breach of the requirement to specify an agent in New Zealand but my finding is that it is not appropriate to award exemplary damages in the circumstances, on the grounds that:

    a. Mr & Mrs Clark did in fact act as agent for Megan after February 2023; and

    b. The lack of formal notice is understandable given that Ms Paterson knew Mr & Mrs Clark, she had their contact information, and they lived nearby.

Breach of quiet enjoyment and harassment

Law

48. Landlords must not interfere with the reasonable peace, comfort, and privacy of their tenants.[11]

49. A breach of this duty, in circumstances that amount to harassment of the tenant, is an unlawful act. Exemplary damages of up to $3,000 can apply.[12]

Mr Clark

50. Ms Paterson said that Mr Clark breached her peace, comfort, and privacy by frequently coming to the property without notice. Ms Clark said that when Mr Paterson came to the property he would intentionally talk loudly about tenancy matters such as rent arrears, so that the neighbours would hear him. The neighbours were friends of Mr & Mrs Clark.

51. Ms Paterson did not allege that Mr Clark came inside the house without notice.

52. Mr Clark acknowledged that he occasionally 'dropped by' to discuss tenancy related matters. He denied that he was there frequently. He denied that he shouted or intentionally talked loudly. He said that it was often Ms Paterson who shouted at him.

53. Landlords only need to give notice, or have the tenant's consent, if they want to go inside the house.[13] Landlords can lawfully walk up to the house and speak with the tenant without having to give notice. However, landlords must respect the tenant's reasonable peace, comfort, and privacy. They cannot visit the property excessively, or for reasons unrelated to the tenancy. When they are there, they must act appropriately.

54. In claims of this type, where a tenant alleges that the landlord came to the property excessively during the tenancy, or that the landlord shouted or used inappropriate language, there is often no independent evidence.

55. That is the case here. Ms Paterson alleges that Mr Clark came to the property excessively and that he shouted. Mr Clark says that he did not. There is no independent evidence available to me.

56. Ms Paterson has the burden of proof. She must prove her claims to the standard of "more likely than not".

57. My finding is that there is not sufficient evidence to prove, to the standard of more likely than not, that Mr Clark interfered with Ms Paterson's peace, comfort and privacy.

58. Ms Paterson also said that Mr Clark threatened to evict her. This relates to a conversation that happened in 2023, when Mr Clark sought to increase the rent.

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[11] Section 39(2) RTA
[12] Section 39(3) RTA
[13] Section 48(7) RTA

59. Mr Clark said that he had discussed a rent increase with Ms Paterson, and she seemed relaxed about it, but when he asked her to sign the new agreement she became upset. Mr Clark said that he then commented that he didn't need the stress of being a landlord and that he would sell the property if things didn't improve.

60. Again, I have no independent evidence about what was said in this conversation, which took place more than two years ago. If Mr Clark only said what he admits to saying, that does not amount to an unreasonable interference with Ms Paterson's peace, comfort, and privacy. Landlords are not legally obliged to remain landlords. They can exit the business, and they can also think about, and talk about, exiting the business.

Mrs Clark

61. Ms Paterson said that Mrs Clark also interfered with her reasonable peace comfort and privacy. Ms Paterson said that Mrs Clark came to the property around Christmas time. Ms Paterson could not recall the date, it was possibly 3-5 years ago.

62. Ms Paterson said that:

    a. Mrs Clark banged "profusely" on the door.

    b. Her daughter Amber was home and was bathing her child. Amber called out to Mrs Clark to hold on a minute, but Mrs Clark continued to bang on the door.

    c. When Amber opened the door, she asked Mrs Clark what she wanted. Mrs Clark made a comment in response along the lines of "how rude is that how you open the door".

63. Mr & Mrs Clark own a butcher shop and their usual practice is to give the tenant some meat at Christmas time.

64. Mrs Clark remembered this incident. She came to the property to give the tenant some meat. She said that she didn't hear Amber call out. She was mildly frustrated about having to wait at the door, but she denied making any rude comments to Amber.

65. Politeness, patience, and good manners between landlords and tenants is something to be encouraged, but it is not something to be legally enforced. The incident is minor and it occurred 3-5 years ago. It does not meet the legal threshold of an unreasonable interference with the tenant's peace, comfort, and privacy.

Megan Clark

66. Megan Clark came to the property in January 2025.

67. Ms Paterson said that Megan took photographs of the house without her consent and banged on the outside of the house demanding to speak to her. She said that when she went outside, Megan said to her “you are not liked around here why don’t you move on”.

68. Megan did not deny that she was upset and angry when she went to the property in January. She explained the reasons for her frustration.

69. There are aspects of this incident that go beyond the politeness / good manners considerations discussed above, in particular the fact that Ms Clark banged on the exterior of the house, took photographs, and tried to put pressure on Ms Paterson to end her tenancy.

70. This is a proven breach of the tenant’s right to reasonable peace, comfort, and privacy.

71. The incident does not meet the criteria of harassment – it was a one-off and I accept that was done ‘in the heat of the moment’ out of frustration. It is not appropriate to make an award of exemplary damages, but I will make an award of compensation.

72. The incident was distressing for Ms Paterson and was completely unnecessary.

73. I will award compensation of $500.00.

Neighbours

74. Ms Paterson’s neighbours are friends of the landlords. Ms Paterson said that Mr & Mrs Clark used the neighbours “as connections to put pressure on me and as spies to gather information about me […] this has resulted in the neighbours breaking the house windows and smashing my car windscreen and verbally abusive towards me”.

75. Mr & Mrs Clark acknowledged that the neighbours are their friends, but they denied using their friends to spy on Ms Paterson or put pressure on her.

76. I acknowledge that Ms Paterson felt surrounded by the landlords’ allies who she felt were hostile towards her. That created a very difficult living environment.

77. However, there is simply no evidence of the landlords intentionally using their friends as a tool to harass Ms Paterson.

78. This part of the claim is dismissed.

Healthy Homes

79. Landlords must:

a. Comply with the healthy homes standards.[14]

b. Include a healthy homes statement in the tenancy agreement,.[15]

c. Retain records that relate to the landlord's compliance with the healthy homes standards[16], and provide that information to the tenant within 21-days of the tenant requesting it.[17]

80. The date for compliance with the healthy homes standards is:

a. For tenancies that started or were renewed between 1 July 2021 and 27 August 2022, 90 days after the start date of the tenancy.

b. For tenancies that started or were renewed between 8 August 2022 and 2 March 2025, 120 days after the start date of the tenancy.

c. For all other tenancies, 1 July 2025.

81. The obligation to have a healthy homes statement in the tenancy agreement applied to all tenancy agreements entered into after 1 July 2019.

82. As discussed above, this tenancy began in 2001, but new tenancy agreements were created in 2017 and 2023 (and possibly also 2013 and 2015).

83. The question is whether these agreements, in particular the 2023 agreement, triggered the requirements for a healthy homes statement and healthy homes compliance.

84. My finding is that they did not. This tenancy did not begin or renew in February 2025. It is a periodic tenancy that began in 2001 and it continued until 2025.

85. The tenancy agreements did not record a new tenancy. They were essentially invalid, and formally incorrect, notices of rent increase. The effect of this error is that rent was not increased lawfully. This issue is discussed in more detail below. However, the "agreements" cannot be treated as genuine tenancy agreements with all the legal implications that flow from that.

86. Therefore:

a. The healthy homes compliance date was 1 July 2025. The tenancy ended before that date.

b. The one genuine tenancy agreement was entered into in 2001, long before landlords were obliged to provide healthy homes statements.

c. The landlords did not have any documents that provide evidence of their compliance with the healthy homes standards. Therefore, even if the

[14] Section 45(1)(bb) RTA
[15] Section 13A(1CA) RTA
[16] Section 123A(1)(e) RTA
[17] Section 45(1AC) RTA

tenant had made a request for such documents (and no such request is proven), there was nothing for the landlords to disclose.

Asbestos

Law

87. Landlords must:
    a. Provide and maintain the premises in a reasonable state of repair, having regard to the age and character of the premises.[18]
    b. Comply with all requirements in respect of buildings, health and safety under any enactment so far as they apply to the premises.[19]
88. The presence of asbestos materials in a dwelling is not unlawful.
89. Asbestos can pose a serious risk to human health when it is in a particulate form.
90. The Health and Safety at Work (Asbestos) Regulations 2016 ("the regulations") impose duties on businesses and those with control over workplaces to manage asbestos-related risks.
91. A tenanted property can, at times, be a workplace, for instance when renovation or repair work is being carried out there. The Tenancy Tribunal has held that in those circumstances the landlord has obligations under the regulations.[20]
92. The regulations place general obligations on "PCBUs" (persons conducting a business or undertaking), such as identifying asbestos risks, and preparing an asbestos management plan.
93. It is not clear whether those specific statutory obligations apply to landlords other than when the premises clearly become a workplace, such as when renovation or repair work is carried out there. It is not obvious that a tenanted property is a "workplace" simply by virtue of a person living there and paying rent.
94. In any event, the landlord's duty to maintain the premises in a reasonable state of repair is sufficiently broad to encompass a duty to ensure that asbestos containing materials are either safely removed, or are maintained in a state where they do not pose any risk to the tenant's health.

Findings

[18] Section 45(1)(b) RTA
[19] Section 45(1)(c) RTA
[20] *Tenant v Hall* [2023] NZTT 4575069, *Tenant v Kainga Ora* [2022] NZTT 4341971 4339636

95. The property has ‘popcorn’ style ceilings in the lounge and hallway, which contain asbestos materials.

96. Ms Paterson raised concerns about the ceilings in February 2019. She was prompted to do so when a friend who is a registered asbestos remover (Ms Brown), visited her at the property and told her that the condition of the ceiling was potentially dangerous. Ms Brown wrote a detailed letter about her concerns, addressed to Mr Clark, dated 27 February 2019.

97. For reasons that are not explained in Ms Paterson’s submission, she gave this letter to Mr Clark three and a half years later, in September 2022.

98. Ms Paterson submitted that Mr Clark dismissed her concerns and took no action.

99. Mr Clark said that he did take action, arranging for an asbestos assessment by Asbestos Environmental Consultants Ltd (“AEC”). Mr Clark received a brief report from AEC in February 2023. Mr Clark provided a copy of the report at the hearing. He had not previously given Ms Paterson a copy of the AEC report.

100. The report confirms the presence of asbestos but does not propose any remedial action.

101. Mr Clark said that he spoke with AEC and they suggested that the best approach is to paint over the ceilings to ‘trap’ the asbestos. Mr Clark said that he talked to Ms Paterson about this, but she objected strongly to the idea of painting these ceilings so he did not proceed. Ms Paterson said that Mr Clark never suggested this to her, and she would have had no objection to these ceilings being painted.

102. Strangely, Ms Brown’s letter from February 2019 includes the following paragraph:

> She [Ms Paterson] also informed me that she has brought this serious issue to your attention […] and feels that the quick ‘paint job’ isn’t safe enough

which suggests that Mr Clark had already suggested this option, four years before he obtained the AEC report.

103. The other puzzling dispute related to asbestos is that Ms Paterson alleges that two “asbestos inspectors” arrived at the property, but the two men were in fact Mr Clark’s grandsons. Ms Paterson’s daughters, who were both at home when this occurred, gave evidence about this at the hearing. Both daughters recalled that this incident happened late last year or early this year, which is two years after the AEC inspection.

104. Mr Clark denied that his grandsons have been to the property in any capacity, and he described the allegation as “bizarre”.

105. The absence of clear written records, and the length of time that has passed, means that there is a lot of confusion over the timeline and sequence.

106. In any event, it is sufficiently clear that:

    a. The ceilings in the lounge and hallway contain asbestos materials.

    b. The ceilings are degrading / disintegrating due to age, which means that asbestos is almost certainly being released in a particulate form.

    c. Mr Clark was aware of this problem by September 2022 at the very latest.

    d. No remedial action was taken.

107. Mr & Mrs Clark had a duty to maintain the premises. Given the health risks associated with asbestos, this should have been a high priority maintenance issue.

108. It is not proven that Ms Paterson refused the option of painting the ceiling. Ms Paterson was entitled to question whether this is an acceptable remedy, and Mr Clark had no written opinion / statement from a suitably qualified asbestos expert to show that painting was an acceptable and effective way of dealing with the asbestos risk.

109. Even if Ms Paterson had objected to painting the ceilings, Mr & Mrs Clark had an over-riding duty to make the premises safe.

110. My finding is that this breach justifies an award of exemplary damages. Exemplary damages for this and other maintenance breaches is discussed below.

Failure to maintain

111. Landlords must provide and maintain the premises in a reasonable state of repair, having regard to the age and character of the premises.[21]

112. This is not a guarantee that the property will not have defects or problems. It is an obligation on landlords to carry out repairs within a reasonable time of a problem coming to their attention.[22]

113. Tenants must notify the landlord, as soon as possible after discovery, of the need for repairs.[23]

114. Failure to maintain the premises in a reasonable state of repair is an unlawful act. The Tribunal may award exemplary damages of up to $7,200.00 for this unlawful act. The other type of monetary damages that the Tribunal can award is compensation.

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[21] Section 45(1)(b) RTA
[22] *Collins v Professionals Hutt City Ltd* DC Wellington CIV-2009-085-1431
[23] Section 40(1)(d) RTA

115. Under this heading, Ms Paterson raised a concern about the stove.

116. Ms Paterson also provided statements and photographs from TCIT regarding TCIT's site inspection in April 2023 Mr Miller and Ms Chan (TCIT) also gave evidence at the hearing on 8 August.

Stove

117. The original stove that was in the property when the tenancy began in 2001 eventually stopped working. The date of this is unclear.

118. Ms Paterson let Mr Clark know.

119. Mr Clark supplied and installed a replacement, second hand stove.

120. Ms Paterson said that the replacement stove was poor quality and that Mr Clark had sourced it from another one of his properties. Ms Paterson said the stove was infested with cockroaches.

121. Ms Paterson replaced that stove herself. She paid $500 for the replacement. She seeks to recover that amount from Mr Clark.

122. Mr Clark said that there was nothing wrong with the replacement stove that he supplied. He denied that it came from another one of his properties, he said that his electrician supplied it. He said that when Ms Paterson told him that she had purchased another replacement herself, he offered to reimburse her the cost if she could provide some evidence of the cost, but Ms Paterson failed to provide it.

123. Ms Paterson confirmed that Mr Clark did indeed offer to reimburse her, but she did not keep any of the paperwork.

124. There is no legal basis to require Mr Clark to pay Ms Paterson $500 for the stove.

125. There is no evidence that the replacement stove that he supplied was not adequate or suitable. Mr Clark's offer to reimburse Ms Paterson was beyond his legal obligation. It was reasonable for him to require some evidence of the cost. None has been provided.

Other maintenance issues

126. Mr Miller carried out the site visit (with a colleague) on 19 April 2023. Mr Miller provided a detailed statement and photographs from the site visit.

127. The property was in a poor state of repair. The carpet was faded and torn. The lino was cracked. There was rot and mould in numerous parts of the house. The paint, particularly on the ceilings, was old, faded, and flaking.

There were numerous broken handles and latches and rat damage. The gutters were blocked. The roofing iron appeared to be lifting in some areas.

128. Mr Clark said that:

    a. He did not carry out inspections.

    b. Ms Paterson would contact him if any work needed to be done, and he would arrange for it to be done.

    c. Ms Paterson did not raise concerns about any of the issues identified in the TCIT site visit.

    d. Ms Paterson did not tell him about the TCIT visit, and he was not given the findings or photographs until she filed this application.

129. There is no evidence of Ms Paterson raising a request for maintenance that was not actioned by the landlords.

130. Houses require proactive maintenance to prevent them from deteriorating over time. This tenancy lasted 24 years, well beyond the usual life expectancy of most household chattels such as carpet and lino. In that context, it seems ludicrous to suggest that Mr & Mrs Clark were not aware of the poor condition of the property.

131. However, I also accept that for most of this tenancy there was a very casual landlord / tenant relationship. The landlords 'left the tenant to it'. It seems that Mr & Mrs Clark were not concerned about carrying out scheduled maintenance to prevent their property from deteriorating over time, but it also seems that Ms Paterson was not proactive in letting the landlords know about the need for repairs.

132. On balance, my finding is that the landlords did fail to meet their legal duty to maintain the premises in a reasonable state of repair, having regard to the following:

    a. This is a fairly extreme instance of a landlord 'turning a blind eye' to the condition of the property. As just one example of this, the landlord provided a photograph of an offensive sign that the tenant put in a window at the property (this is discussed in more detail below in the landlord's claim). The landlords noted the offensive sign, but apparently did not note the obviously broken guttering that is also shown in the photograph.

    b. In February 2023 the landlord promised to replace the carpet and lino, which is a clear acknowledgment that these floor coverings were in need of replacement. Mr Clark said that this work did not proceed because Ms Paterson told him that she did not want the disruption and she was OK with the condition of the carpet and lino. However, Ms Paterson denied this, and it seems unlikely that Ms Paterson would decline new carpet and lino given the obviously poor condition of what is in the house.

c. Ms Paterson may have felt reluctant to raise maintenance issues, particularly issues such as rot and mould, due to concerns that the landlords could end her tenancy. Landlords cannot delegate responsibility for monitoring the condition of the property entirely to their tenants. It is a joint responsibility.

Exemplary damages - maintenance

133. I have made findings that the landlords breached their maintenance obligations in respect of:

    a. The asbestos-containing ceilings in the lounge and hallway; and.

    b. The overall condition of the premises as set out in the TCIT findings from their site visit in April 2023.

134. Failure by the landlord to maintain the premises in a reasonable state of repair is an unlawful act. Exemplary damages of up to $7200 can apply.

135. The District Court has held[24] that the Tribunal must take a 'global approach' to exemplary damages, meaning that it may make a single award for a type of breach and not individual, cumulative awards for each breach of that type.

136. Section 109 RTA sets out the matters that the Tribunal must consider when making an award of exemplary damages (listed in paragraph 33 above).

137. In this instance:

    a. The landlords did not intentionally breach their maintenance obligation in the sense of wilfully refusing maintenance requests. Rather, they were excessively "hands off" and casual.

    b. The effect on the tenant was significant. The crumbling ceiling posed a genuine risk to her and her family's health. The deteriorating state of the premises, in particular the issues that impacted on the habitability of the home (such as rot, mould, drafts, holes, etc) caused a significant loss of amenity.

    c. There is a genuine and legitimate public interest in ensuring that landlords properly maintain rental properties.

138. Having regard to those factors I will award exemplary damages of $5,400.00.

Rent increases

139. I have made a finding above that the "tenancy agreements" that the landlord and tenant entered into after 2001 were not genuine agreements recording a

[24] *MBIE v Hills Shearing Ltd* [2024] NZDC 27583

new or renewed tenancy, but misconceived and ineffective notices of rent increase.

140. It follows that the landlords failed to meet the legal requirements for increasing the rent during a tenancy which are:[25]

    a. A notice specifying the amount of the increased rent and the date that the increase will take effect; and

    b. That the rent increase will take effect no sooner than 60-days after the date of the notice.

141. I understand that Ms Paterson is also seeking reimbursement of increased rent charged pursuant to these ineffective rent increases.

142. My finding is that:

    a. Claims for reimbursement of rent pertaining to the 2017 agreement, and any prior agreements, are timebarred. The claims relate to breaches that occurred more than six years before this application was filed.

    b. In terms of the 2023 increase, although the landlord recorded the rent increase in a new tenancy agreement dated 1 April 2023, she (Megan Taylor) also sent the tenant a letter dated 8 Februrary 2023 notifying the tenant of the proposed increase to take effect on 24 April 2024.

       The letter is not without difficulties. In particular, it includes a threat to terminate the tenancy if Ms Paterson refused to sign the new agreement. This is discussed in more detail below.

       However, the letter is an effective notice of the April 2025 rent increase. It specifies the amount of the increase, the date it is to take effect, and it gives at least 60-days' notice.

143. Therefore, I find that this 2023 rent increase was lawful and there is no legal basis to order a refund of rent.

Threat to terminate

144. The letter dated 8 February 2023 included the following paragraph:

> If tenancy agreement is not agreed or signed by tenant holder of 12 Hospital Road, tenant has 92 days to evacuate from property.

145. At this time, landlords were not able to give 'without cause' 90-day termination notices. Landlords could only terminate in certain specific circumstances (for instance, if they were putting the property on the market for sale, or were

[25] Section 24 RTA

moving into the property themselves), and the termination notice had to specify the reason for termination.[26]

146. It is an unlawful act for a landlord to give, or purport to give, notice to terminate a tenancy knowing that they are not entitled to give notice.[27] Exemplary damages of up to $6,500.00 can apply.

147. Any claim for exemplary damages in respect of the 8 February 2023 letter is time barred. This application was filed more than 12 months after the letter was sent.

148. There is, however, grounds for an award of compensation. The letter amounted to an unreasonable interference with the peace comfort and privacy of the tenant. It is unacceptable for a landlord to attempt to coerce a tenant into signing a document under the threat of termination of the tenancy. The letter caused Ms Paterson unnecessary stress.

149. Courts and Tribunals tend to approach awards of general damages cautiously, recognising that the person has not suffered an 'out of pocket' loss, and that stress and anxiety is extremely difficult to quantify.

150. This was a moderately stressful, one-off incident.

151. I will award compensation of $250.00.

Heat pump

152. A heat pump was installed in the property in August 2021.

153. Ms Paterson said that:

    a. Mr Clark had previously refused to install a heat pump, even though the fireplace was unsafe to use.

    b. Per the healthy homes standards, Mr Clarke was legally required to install a sufficient heating device on 1 July 2019.

154. Mr Clark denied refusing to install a heat pump. He said that he had the pump installed promptly when Ms Paterson told him that she was finding the property cold.

155. My finding is that:

    a. There is no evidence of any excessive delay in installing the heat pump.

    b. Landlords were obliged to have compliant insulation installed by 1 July 2019, an obligation that pre-dates the other healthy homes standards, but the heating standard did not take effect on that date. The heating standard

[26] Section 51(1) RTA as at February 2023
[27] Section 60AA RTA

takes effect on the compliance date for each particular tenancy. As discussed above, the healthy homes compliance date for this tenancy was 1 July 2025.

156. There is no proven breach of a legal duty under this heading.

Summary of tenant's application

157. The following parts of the tenant's application are proven:

> Failure to maintain the premises in a reasonable state of repair ($5,400.00)
>
> Failure to lodge the bond with the bond centre ($350.00)
>
> Breach of quiet enjoyment – Megan Clark ($500.00)
>
> Unlawful threat to terminate tenancy – Megan Clark ($250.00)

Landlords' application.

Overview

158. The landlords seek compensation / exemplary damages for:
    a. Rent arrears.
    b. Re-glazing of broken windows.
    c. Refusal of access.
    d. Unauthorised cabins.
    e. "Animal welfare / condition of property".
    f. Offensive sign in window.
    g. Harassment of Mrs Taylor at her workplace.
159. At the hearing, Mr & Mrs Taylor withdrew the claim for refusal to grant access.

Rent arrears

160. This relates to rent arrears that accrued over several weeks, many years ago.
161. Mr Clark could not remember when this happened. Ms Paterson recalled that it was in 2005.
162. Mr Clark did not pursue the arrears at that time.
163. His claim is now timebarred.

Window repairs

164. The claim seeks $4,599.86 for re-glazing of broken windows in 2016.

165. At the hearing Mr Clark clarified that he did not pay $4,599.86 for this work. It was paid by his insurer. He would have paid an excess.

166. In any event, the damage occurred more than six years before this application was filed. The claim is timebarred.

Unauthorised cabin

167. Mr Clark said that Ms Paterson's daughters arranged for a cabin to be delivered to the property, without his knowledge or consent.

168. Mr Clark said that when he found out about this, he contacted the transport company and cancelled the delivery.

169. Ms Paterson said that they made enquiries about cabins but had not made an order or arranged a delivery.

170. Neither party provided evidence about this incident.

171. Tenants may not make alterations to the property without the consent[28], but thinking about making an alteration or even planning to make an alteration, without actually making the alteration, is not a breach of any legal duty.

172. The claim is dismissed.

Animal welfare / condition of property

173. This part of the landlords' claim essentially relates to concerns about the welfare of Ms Paterson's dogs.

174. Dog owners owe legal duties in respect of the care and treatment of their pets, but they are not tenant duties, and there is no part of the Residential Tenancies Act that relates to the care of pets.

175. The link to property damage was tenuous at best. Mr & Mrs Clark submitted that Ms Paterson's dog was locked up on a terrace area all day, and that the dog created a mess and disrupted the neighbour on that side of the property. No evidence was provided.

176. This part of the claim is dismissed.

Offensive sign in window

[28] Section 42 RTA

177. Ms Paterson returned to the property after a period away and found that the windscreen of her parked car was smashed and a window in the house was smashed. Someone had thrown a bottle through the window.

178. Ms Paterson boarded up with the window and wrote a message on the exterior side of the board, directed to the vandals. Ms Paterson believed that her neighbours were responsible. There had been ongoing disputes between Ms Paterson and her neighbours. The message was very visible, and it contained offensive language.

179. Tenants must not cause an unreasonable interference with the peace comfort and privacy of anyone residing in the neighbourhood.[29]

180. Ms Paterson argued that the message on the sign was directed to the persons who did the damage, and since the neighbours all denied causing it, they should not be offended by the message.

181. That is a clever argument, but it overlooks the fact that the sign is 'in the face' of the neighbours, including the offensive language, whether or not the message is directed towards them.

182. My finding is that:

    a. The sign is an interference with the peace, comfort and privacy of the neighbours.

    b. There is no basis for an award of exemplary damages because the sign does not amount to harassment of the neighbours[30]. The sign is intended to harass the person(s) who carried out the damage, and the neighbours deny that it was them.

    c. The offense to the neighbours is essentially secondary – being exposed on a daily basis to a large sign with offensive language on it.

    d. I have no statements or other evidence from the neighbours about the impact that this had on them.

    e. In the circumstances I will make a nominal award of general damages. I will award $100.00.

Harassment of Mrs Clark

183. Mrs Clark works at the St John shop in Kawakawa.

184. Mrs Clark said that Ms Paterson would come into the shop and verbally abuse her and other staff members there.

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[29] Section 40(2)(c) RTA
[30] Section 40(3A)(d) RTA

185. Mrs Clark provided a statement from one of her work colleagues in support of this allegation.

186. Mr & Mrs Clark's written submission states "this constitutes harassment under section 40(1)(b) (no harassment of landlord). I seek exemplary damages of $1000 for this breach".

187. Section 40(1)(b) RTA states that the tenant shall ensure that the premises are occupied principally for residential purposes. It is not relevant to harassment.

188. There is no part of the RTA that states that the tenant must not harass the landlord.

189. Section 40(2)(c) RTA states that the tenant must not interfere with the reasonable peace, comfort, and privacy of "any other persons residing in the neighbourhood", which is a category of persons that could potentially include the landlord if the landlord lived next door. That is not the case here.

190. There are civil and criminal remedies available to persons who are being harassed. Those remedies are outside of the jurisdiction of the Tenancy Tribunal. However, there are no specific remedies in the RTA for landlords who are harassed by their tenants.

191. Therefore, I am not able to make an award for exemplary damages under this heading.

Filing fee, bond

192. Both parties were partially successful in their applications, and I will award the filing fee to both parties.[31]

193. The tenancy has ended. The bond will be released to Ms Paterson.

THE SEAL OF THE TENANCY TRIBUNAL

N Blake
18 September 2025

[31] Section 102(4)(b) RTA

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.