TENANCY TRIBUNAL AT REMOTE LOCATION | TE TARAIPIUNARA RETIHANGA

APPLICANT: Bains Estates Limited

Landlord

RESPONDENT: Jayda Fifita

Tenant

TENANCY ADDRESS: 32A Walpole Avenue, Hillpark, Auckland 2102

ORDER

1. Jayda Fifita must pay Bains Estates Limited $5,342.45 immediately, calculated as shown in table below.

Description	**Landlord**	**Tenant**
Rent arrears to 30 May 2025(minus the already refunded bond of $2,760.00)	$3,230.00	
Lock/key replacement	$238.50	
Repair of lounge vertical blind	$250.00	
Rubbish removal: Skip bin hire	$465.00	
Repairs: Stove door	$267.95	
Cleaning	$250.00	
Carpet Cleaning: Stain removal	$184.00	
Labour to remove rubbish, repair and touch up hallway wall damage and kitchen	$430.00	
Filing fee reimbursement	$27.00	
Total award	**$5,342.45**	
Total payable by Tenant to Landlord	**$5,342.45**	

Reasons:

1. The landlord attended the hearing. The tenant did not.
2. I am satisfied that the tenant had received proper notice of the hearing time, date and place and chose not to attend. I called the tenant twice on the number provided. The first time the tenant answered and when she was made aware that it was the Tribunal calling for the hearing, she hung up the phone. My subsequent call went to voice mail. The hearing proceeded without the tenant.
3. The landlord has applied for rent arrears, compensation, and reimbursement of the filing fee following the end of the tenancy.

How much is owed for rent?

4. The tenancy ended on 30 May 2025. The landlord provided rent records which prove the amount owing at the end of the tenancy, after the bond amount was deducted from the rent arrears owing.

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

5. 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. The tenant is required to replace worn out smoke alarm batteries during the tenancy. See section 40(1)(ca) Residential Tenancies Act 1986. The tenant must also replace standard light bulbs.
6. The tenant did not leave the premises reasonably clean and tidy and did not remove all rubbish.
7. The tenant did not return the keys.
8. The amounts ordered are proved.

Is the tenant responsible for the damage to the premises?

9. 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.
10. Where the damage is careless, and occurs after 27 August 2019, section 49B RTA applies. If the landlord becomes aware of the damage after 27 August, the damage is presumed to have occurred after that date unless the tenant proves otherwise.

11. 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.

12. 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.

13. 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.

14. 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.

15. The landlord claims the following damage was caused during the tenancy:

    a. The oven door was broken and did open and close properly from careless use. It required repair; and

    b. The paint on the hallway and kitchen walls needed touch up after being marked from careless acts or omissions by the tenant or by a person for whose actions or omissions the tenant is also responsible.

16. The landlord has provided photographic evidence that proves on the balance of probabilities the damage was caused by the tenant’s careless acts or omissions and that the nature of the damage suggests it is more likely than not the damage is more than fair wear and tear. The tenant has not disproved liability for the damage.

17. The amounts ordered are proved.

18. 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 calculating depreciation, I have considered the age and condition of the items at the start of the tenancy and their likely useful lifespan.

Reimbursement of filing fee

19. Section 102(4) of the RTA confirms that applicants that are wholly or substantially successful in proving their claims will have their filing fee reimbursed.

20. Because Bains Estates Limited has wholly succeeded with the claim I must reimburse the filing fee.

M Pollak
08 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.