[2025] NZTT 5272402

TENANCY TRIBUNAL AT ROTORUA | TE TARAIPIUNARA RETIHANGA KI TE ROTORUA-NUI-A-KAHUMATAMOMOE

APPLICANT:	Ian Basil Lipscombe and Meg Lipscombe Landlord
RESPONDENT:	Jason Simpson and Grant Simpson Tenant
TENANCY ADDRESS:	16 Icarus Place, Sunnybrook, Rotorua 3015

ORDER

1. Application dismissed.

Reasons:

1. The Landlord attended the hearing.
2. The Landlord has applied for compensation and reimbursement of the filing fee following the end of the tenancy.

Is the tenant responsible for the damage to the premises?

3. 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.
4. 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.
5. 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.

6. 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.

7. 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.

8. 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.

9. The Landlord claims the Tenant admitted to methamphetamine use during the tenancy. The Landlord suspects the Tenant was manufacturing methamphetamine at the premises, but no probative evidence is advanced in support of this allegation.

10. The Landlord did not undertake pre-tenancy testing. The Landlord writes:

    "We purchased 16 Icarus Place from long time family friends in December 2016. They had lived in the house for 30 years. We did major renovations prior to renting, including a complete new kitchen with appliances, new bathrooms and a heat pump. The tenants, Jason and Grant Simpson moved in on March 2017 and were the only tenants over 8 years until they moved out in April 2025.

    Although we did not do a meth test at the time of purchase, there was meth contamination on the new appliances when we tested 8 years later, categorically showing that it came from the tenants, and they did not dispute this.

    I have attached the first test results, 2 pages of a 29 page document. Please advise if you require the whole document."

11. In the course of the tenancy, the Landlord entered into an agreement to sell the property. A prospective purchaser undertook methamphetamine testing under a toxicology report condition. The test results (sampled 16 April 2025) are shown below:

Location of Samples Taken	Meth Detected	µg per 100cm²	Remediation Required
180050378 Sample A: Kitchen	Yes	0.57µg	Required
180050378 Sample B: Kitchen	Yes	5.41µg	Required
180050581 Sample A: Kitchen	Yes	1.69µg	Required
180050378 Sample C: Dining Room	Yes	4.58µg	Required
180050378 Sample D: Lounge Room	Yes	12.1µg	Required
180050378 Sample E: Lounge Room	Yes	2.36µg	Required
180050378 Sample F: Lounge Room	Yes	0.47µg	Required
180050378 Sample G: Lounge Room	Yes	1.41µg	Required
180050378 Sample H: Hallway	Yes	23.7µg	Required
180050378 Sample I: Hallway	Yes	2.31µg	Required
180050581 Sample B: Hallway	Yes	14.0µg	Required
180050581 Sample C: Hallway	Yes	13.2µg	Required
180050378 Sample J: Bedroom 1	Yes	2.60µg	Required
180050378 Sample K: Bedroom 1	Yes	7.09µg	Required
180050581 Sample D: Bedroom 1	Yes	5.15µg	Required
180050378 Sample L: Bedroom 2	Yes	58.4µg	Required
180050378 Sample M: Bedroom 2	Yes	3.91µg	Required
180050581 Sample E: Bedroom 2	Yes	15.6µg	Required
180050378 Sample N: Bedroom 3	Yes	1.48µg	Required
180050378 Sample O: Bedroom 3	Yes	12.0µg	Required
180050581 Sample F: Bedroom 3	Yes	5.64µg	Required
180050378 Sample P: Separate Toilet 1	Yes	1.90µg	Required
180050378 Sample Q: Separate Toilet 1	Yes	15.2µg	Required
180050378 Sample R: Separate Toilet 2	Yes	12.4µg	Required
180050378 Sample S: Separate Toilet 2	Yes	3.60µg	Required
180050378 Sample T: Bathroom	Yes	1.07µg	Required
180050378 Sample U: Bathroom	Yes	4.67µg	Required
180050378 Sample V: Laundry	Yes	9.49µg	Required
180050378 Sample W: Laundry	Yes	6.96µg	Required
180050581 Sample G: Laundry	Yes	8.51µg	Required
180050378 Sample X: Shed or Outbuilding	Yes	5.95µg	Required
180050378 Sample Y: Shed or Outbuilding	Yes	15.0µg	Required
Room(s) not sampled	N/A	N/A	
Reason why rooms not sampled	N/A	N/A	

12. The Landlords did not provide a copy of the full methamphetamine testing report with their application. Portions of the April 2025 toxicology report were produced after the hearing, at my request.

Assessment

13. The Tribunal accepts that the April 2025 results show methamphetamine residue, including levels above both the NZS 8510:2017 standard (1.5 µg/100cm²) and the 15 µg/100cm² threshold identified in the Gluckman Report. The highest reading was 58.4 µg/100cm² in bedroom 2.

14. In New Zealand, the lack of pre-tenancy methamphetamine testing can significantly weaken a claim for compensation for damage caused by a tenant during a tenancy. This is because, without such testing, it becomes challenging

to establish that the methamphetamine contamination occurred during the tenancy and was caused by the tenant.

15. Case law has consistently emphasised the importance of pre-tenancy testing to establish a baseline. For instance, in *Eren Ltd v Martin*,[1] the Tenancy Tribunal dismissed the Landlord's claim for compensation for methamphetamine contamination because there was no evidence of testing at the start of the tenancy. The Tribunal found that without such evidence, it could not be proven on the balance of probabilities that the contamination occurred during the tenancy or was caused by the tenant.

16. Similarly, in *Hodges v Imrie*, the Tribunal's decision was overturned on appeal because the lack of pre-tenancy testing made it impossible to determine whether the contamination occurred during the tenancy.[2] As the adjudicator hearing that case, the Landlord's evidence appeared compelling to me at the time, but was insufficient, because of causation.

17. Without a pre-tenancy baseline test, the Tribunal cannot be satisfied on the balance of probabilities that the contamination arose during the tenancy rather than before it.

18. The Tenants' alleged admission of methamphetamine use is relevant circumstantial evidence, but without a baseline test it does not prove that the contamination, at the levels recorded, was caused by them during the tenancy.

19. The Landlords submit that major renovations were undertaken prior to the tenancy, including new kitchen and bathroom installations and new appliances. They argue that contamination subsequently detected on appliances installed in 2017 must therefore have arisen during the tenancy.

20. While this is persuasive circumstantial evidence, it does not displace the evidential requirement for a baseline test. The Tribunal cannot assume that because appliances and fixtures were new in 2017, contamination detected on them in 2025 must have occurred during the tenancy.

21. Further, no specific testing results for the appliances or new installations have been produced in evidence. Only selected portions of the toxicology report have been filed. Even if those results had been filed, they would still face the same difficulty: contamination was recorded at the end of the tenancy, but without baseline data the Tribunal cannot exclude the possibility that it pre-dated the tenancy or arose from another source.

22. For these reasons the claims for compensation and exemplary damages are dismissed.

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[1] *Erin v Martin* [2021] NZDC 15210.
[2] *Hodges v Imrie* [2021] DCR 775.

23. I treat the Tenant as having abandoned the bond to the Landlord.

M Steens
11 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.