[2025] NZTT 5269642

TENANCY TRIBUNAL AT REMOTE LOCATION | TE TARAIPIUNARA RETIHANGA

APPLICANT: Kāinga Ora–Homes And Communities

Landlord

RESPONDENT: Danielle Ngawake Smith

Tenant

TENANCY ADDRESS: 71 Ferguson Street, Manurewa East, Auckland 2102

ORDER

1. Danielle Ngawake Smith must pay Kāinga Ora–Homes And Communities $337.82 immediately, calculated as shown in table below.

Description	**Landlord**	**Tenant**
Rent credit		$147.28
Repairs: to holes in walls in the living room, dining room, entry/hall way, bedrooms 1, 2 and 3 and bathroom and toilet	$707.10	
Total award	**$707.10**	**$147.28**
Net award	$559.82	
Bond	$222.00	
Total payable by Tenant to Landlord	**$337.82**	

2. The bond centre is to refund the bond of $222.00 to the applicant immediately.

Reasons:

1. Both parties attended the hearing. Ms Smith only for a short period to request that the hearing was adjourned, as she could not stay for the call.
2. I considered her request, but determined that it should be declined, as the notice of hearing had been properly served and she had not requested the adjournment prior to the hearing.

3. It was also very apparent that the landlord had strong evidence to support the relatively modest compensation claim given the number of holes in the walls that clearly occurred during the tenancy, and that there was therefore little that she could have said which would have led to a different outcome.
4. The landlord has applied for compensation and a refund of the bond, following the end of the tenancy.
5. The tenancy began on 19/11/2028 and ended on 20/3/2025. The landlord provided rent records which prove a rent credit was due to the tenant at the end of the tenancy and includes all payments the tenant has made to date to reduce the debt owing.

Is the tenant responsible for the damage to the premises?

6. 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.
7. 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.
8. 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.
9. 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.
10. The following damage was caused during the tenancy: there were holes in the walls in almost every room of the house. The photographs provided show that the damage has occurred during the tenancy and is more than fair wear and tear. The tenant has not disproved liability for the damage.
11. The amount ordered is proved.
12. Betterment and depreciation principles are not relevant. The compensation requested is only for actual repairs to clearly damaged surfaces and does not include painting or any other aspect that could require depreciation of the amount awarded.

13. The landlord will not therefore be returned to a better position than they would have been in had the tenant not breached her obligations.

14. The landlord did not request reimbursement of the filing fee.

J Maher
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.