[2025] NZTT 5320141

TENANCY TRIBUNAL AT GISBORNE | TE TARAIPIUNARA RETIHANGA KI TŪRANGANUI-A-KIWA

APPLICANT: Kāinga Ora–Homes And Communities

Landlord

RESPONDENT: Mark McMillian

Tenant

TENANCY ADDRESS: 43 Titoki Street, Te Hapara, Gisborne 4010

ORDER

1. The tenancy of Mark McMillian at 43 Titoki Street, Te Hapara, Gisborne 4010 is terminated, and possession is granted to Kāinga Ora–Homes And Communities, immediately.

Reasons:

1. Ms Thompson-Wise, representing the landlord, attended the hearing by phone. The hearing was scheduled for a face-to-face hearing. The tenant did not attend the hearing or contact the Registry about the hearing.
2. The landlord has applied for termination and possession of the premises and Notice to Quit.
3. The landlord provided a copy of a 90-day termination notice dated 28 April 2025 sent to the tenant terminating his tenancy, with the last day of the tenancy being 29 July 2025.
4. The landlord said the tenancy was terminated as there is extensive retrofitting required of the property, along with several others nearby. The landlord said the

tenant has been offered 4 alternative properties but has refused to leave the property. The landlord said the tenant has some mental health issues which they believe are affecting his decision to leave the property.

5. I find the 90-day termination notice dated 28 April 2025 from the landlord to the tenant meets the requirements set out in section 51(3) Residential Tenancies Act 1986 and so is valid.

6. Therefore, the tenancy of Mark McMillian at 43 Titoki Street, Te Hapara, Gisborne 4010 is terminated, and possession is granted to Kāinga Ora–Homes And Communities, immediately.

C Price
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.