[2025] NZTT 5249879

TENANCY TRIBUNAL AT WAITAKERE | TE TARAIPIUNARA RETIHANGA KI WAITĀKERE

APPLICANT: Qi (Zino) Zhang

Landlord

RESPONDENT: Shae Brita Afamasaga

Tenant

TENANCY ADDRESS: 29 Falcon Crescent, Hobsonville, Auckland 0618

ORDER

1. Shae Brita Afamasaga must pay Qi (Zino) Zhang $3,132.00 immediately, calculated as shown in table below:

Description	**Landlord**	**Tenant**
Cleaning/Rubbish Removal	$1,207.50	
Repairs	$1,897.50	
Filing fee reimbursement	$27.00	
Total award	**$3,132.00**	
Total payable by Tenant to Landlord	**$3,132.00**	

Background:

1. Both parties attended the hearing.
2. On 20 December 2024, the Tenancy Tribunal made an order terminating the Respondent's tenancy, with effect from 5:00 p.m. on Friday, 3 January 2025.
3. The present application concerns the costs sought by the Applicant in relation to the condition of the premises upon vacating.
4. The Applicant submits that the Respondent failed to leave the premises in a reasonably clean and tidy condition and that the Respondent caused careless

damage. The Applicant claims $2,530.00 for repair costs and $1,610.00 for cleaning and rubbish removal costs.

What the respondent tells me?

5. The Respondent submits that the claimed cleaning and repair costs should not be awarded because she was not given sufficient opportunity to complete the cleaning before vacating. She states that on the vacate date, at approximately 11:00 a.m., the Applicant attended the property with a colleague and engaged in behaviour she describes as intimidating toward her and her children. She further states that the Applicant returned at 5:00 p.m. and again engaged in intimidating behaviour. As a result, she says she left the property at 5:30 p.m. without completing the cleaning. The Respondent asserts that this is the reason the property was left in its condition. She also maintains that she is unaware of some of the alleged damages and does not believe that they occurred during the tenancy.
6. When asked to clarify what she meant by “intimidation,” the Respondent was unable to provide a clear description. When prompted, she stated that the Applicant came close to her and that he was accompanied by a large friend.

The applicant’s response:

7. The Applicant disputes the Respondent’s account. He states that, prior to the end of the tenancy, he issued an inspection notice advising that he would attend the property on the 2nd of January 2025. His stated intention was to inspect the premises and provide information regarding any work required before the tenancy terminated. He has produced text messages showing that the Respondent requested to reschedule this inspection, and further messages indicating that the visit on the 3rd of January 2025 at approximately 11:00 a.m. was with the Respondent’s consent.
8. The Applicant states that at this inspection he was disappointed to find that no work had been carried out and that he expressed his frustration. He says he was not accompanied by anyone at this first inspection. He states that he returned at approximately 5:30 p.m., at which time the Respondent was still at the property and no cleaning had been completed. He acknowledges that he again expressed frustration at this point and that he was accompanied by a friend. He states that he left the property thereafter, but that when he drove past again at 8:00 p.m. the Respondent remained at the premises.

Is the respondent liable for the cleaning and damage repair?

9. I have considered the circumstances described by both the Respondent and the Applicant. However, I find that these matters do not affect my determination of liability for the claimed damage, cleaning, and rubbish removal costs. Liability for such costs must be assessed according to the usual legal standards. In reaching this view, I have taken into account the evidence presented by both parties. I am reasonably satisfied that the Applicant's entry to the property at 11:00 a.m. was with the Respondent's consent, and that when the situation became agitated, he left. I further find that his later return at approximately 5:30 p.m. occurred after the tenancy had ended. The Respondent's obligation was to return the premises in a reasonably clean and tidy condition by 5:00 p.m., and this obligation was not met. I do not consider that there were circumstances in which the Applicant prevented the Respondent from meeting this obligation.

10. In considering any claim before the Tenancy Tribunal, the applicant bears the burden of proof and must establish their case on the balance of probabilities, meaning that what is claimed is more likely than not. As noted in Kaipo v Clarke & McCarthy (DC) TT233/02, it is incumbent on the applicant to provide sufficient evidence—such as independent witnesses, documents, or photographs—to prove their claim; if they fail to do so, the application may be dismissed regardless of merit. I do not need to be completely certain, but I must be more certain than uncertain, weighing all of the evidence presented, including oral evidence, to decide what is more likely.

11. In support of the costs claimed, the Applicant has provided photographs showing damage to the walls, a substantial amount of rubbish, and that the premises were not left in a reasonably clean or tidy condition, with rubbish strewn across much of the property.

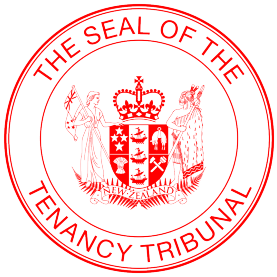
12. Likewise, the Applicant's photographs demonstrate damage that appears to have been caused by carelessness. This includes impact damage, with visible holes in the walls, a dent in the garage door, and bending to the framing of the garage door on the corresponding side.

13. A tenant's liability for careless damage is limited to the amount of the insurance excess or four weeks' rent, whichever is the lesser. The tenancy agreement records the insurance excess as $2,750. As the amount claimed for damage is less than this, the claim is therefore not restricted by the statutory cap.

14. I accept that the premises were not left in a reasonably clean and tidy condition and that rubbish removal was required, in breach of the tenant's obligation under section 41(e)(iii) of the Residential Tenancies Act 1986. I further accept that the damage identified in the hearing was caused by the tenant's carelessness.

15. When asked to describe the work undertaken by the contractor, the Applicant stated that he engaged the contractor to clean the property and repair the damage. However, from the descriptions provided, it appears that some work not directly related to the claim was included in the contractor's invoice. This included pest control, repair of a tap, and other items that can properly be attributed to fair wear and tear. In light of these discrepancies, I have determined it appropriate to award 75% of the total amount claimed for cleaning, rubbish removal, and damage repairs.

16. Because Qi (Zino) Zhang has substantially succeeded with the claim I have reimbursed the filing fee.



H Ben Fayed
15 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.