[2025] NZTT 5292988

TENANCY TRIBUNAL AT [Event location suppressed]

APPLICANT: [The applicant/s]

Tenants

RESPONDENT: Vishal Malhotra, Shaina Malhotra

Landlords

TENANCY ADDRESS: 9 Tumanaka Place, Henderson, Auckland 0612

ORDER

1. An application for suppression has been made in this case, and the Tribunal orders suppression of the Tenants' name and identifying details.
2. The Bond Centre is to pay the bond of $2,400.00 ([Bond number suppressed]) to [The tenant/s] immediately.

Description	**Landlords**	**Tenants**
Compensation for loss of amenity due to flooding		$600.00
Filing fee reimbursement		$27.00
Total payable by Landlords to Tenants		**$627.00**

Reasons:

1. Both parties attended the hearing. A support person attended with each party.
2. This tenancy of a separate granny flat underneath the landlords' house began on 3 March 2025. The tenants gave notice on 28 April 2025 and moved out on 16 June 2025.

Bond

3. The tenants have applied for refund of the bond.

4. The landlords say that they have a claim for damage from the bond (damage caused when three hooks that the tenants installed were removed) but has not filed a counterclaim with Tenancy Services.

5. The tenants say that the landlord allowed them to put up the hooks and they left the hooks for the next tenants.

6. The landlords said that they agreed that the tenants could put up removable command hooks but that the tenants screwed hooks into the wall.

7. It appears that after initial discussions the parties were not able to agree on how much should be deducted from the bond (if anything).

8. Section 22B(2) Residential Tenancies Act 1986 provides that, where a tenant applies for refund of the bond, and the landlord seeks payment from the bond, the landlord must file an application setting out the details of the counterclaim.

9. Because the landlords have not filed a counterclaim the bond is refunded in full to the tenants.

Flooding

10. The tenants explained that they moved to the property with their young child because the property was brand new and they expected it to be warm and dry.

11. However they suffered three separate flooding events as follows:

    a. 8 April 2025: The tenants discovered water under the window in the lounge (approximately on bucket full)

    b. 19 April 2025: The tenants discovered much more water under the window in the lounge, this time spreading across the floor (approximately three buckets full)

    c. 20 April 2025: The tenants went out but were concerned about flooding so asked the landlords to check the property. Mr Malhotra checked and discovered flooding in the lounge that had spread to the bedrooms (much more in one bedroom than the other).

12. The tenants seek compensation for items damaged due to flooding/contaminated with flood water, a replacement dehumidifier as it was used to dry out contaminated floor water, and for loss of amenity while the property was flooded.

13. The tenants say that the flooding was very stressful for them, but the landlords were focussed on fixing the outside and neglected to fix the inside. They said that the landlords did not come and clean the carpet but instead simply dried it out. They said that they thought the landlords were going to have the property professionally cleaned but that this never happened.

14. The tenants said that the carpet in one of the bedrooms never really dried properly and so they could only use the other bedroom. They said that while the

works were going on outside there was mess and mud and nowhere for their child to play.

15. The landlords say that they sought building consent to build the granny flat where the garage had been under their house, and they engaged an architect and a registered builder to do the work.

16. They explained that that the granny flat was completed in January 2025 and that they obtained a Code of Compliance certificate and Healthy Homes report before renting it out.

17. They said that they were shocked that the property flooded. They said that when the first flooding occurred they immediately called their builder and plumber who arrived within an hour and inspected the property and could find no issue. They said that at that stage it looked as though the water could have come from the bathroom and so they asked the tenants to keep an eye out for further issues.

18. The landlords said that when the second flooding occurred they contacted the builder and plumber again who came and found water coming in through from an area outside the house and behind the bathroom. They said that the plumber told them there was a blocked pipe which was now fixed and that they that was the end of the matter.

19. However, the next day the tenants went out and asked the landlords to check on the property as they were out and were concerned as it was raining. Mr Malhotra went to check and found water again in the lounge and spreading into the bedrooms. Mr Malhotra and his father cleaned up the water in the lounge (which had laminate flooring) and obtained a commercial vacuum to clean the carpet in the lounge and a commercial fan to dry out the area. The landlords said that they offered to do more vacuuming, but the tenants told them that they would do it. There was a dispute between the parties as to whether the landlords offered a dehumidifier so that the tenants would not have to use their own.

20. The landlords said it was Easter weekend by this stage and they had they recently had a baby. Nevertheless, they spent much of the weekend trying to prevent further water ingress and had a builder and plumber attend after hours. They said that the issue was finally identified as surface water flooding from their property and into the tenant's property due to very heavy rain. They said that the water was clear rainwater and was not contaminated. The plumber installed further drainage and a pump to prevent the property from occurring again, all of which took some time. The landlords said that there has not been any flooding since.

21. The tenants accepted that the landlords had responded in a timely manner in each case but said that they were paying rent for a property that was flooding and so they did not have full use of the property, that the landlords had

focussed on repairing the property from the outside and not on drying out the inside, and that the whole situation was very stressful.

Have the landlords breached their obligations and are the tenants entitled to compensation?

22. Under s45(1)b of the Residential Tenancies Act 1986 (RTA) landlords must provide and maintain the premises in a reasonable state of repair. That provision provides:

> **45 Landlord's responsibilities**
>
> (1) The landlord shall—
>
> (a) …
>
> (b) provide and maintain the premises in a reasonable state of repair having regard to the age and character of the premises and the period during which the premises are likely to remain habitable and available for residential purposes…

23. Landlords are liable for defects that they have knowledge of. They must repair defect within a reasonable time once they acquire such knowledge. The District Court has said that[1]:

> "…the obligation of the landlord, under s 45, is to investigate and repair a defect brought to its attention within a timeframe which is reasonable in the circumstances and as to what that time is, I think, depends not only on the gravity of the problem but also on the objective evidence of the attempts made by the landlord to investigate, and put right, whatever the problem might be…"

24. Having heard from the parties and reviewed the evidence it is apparent that this was a totally unexpected event. The landlords had no idea that the property was likely to flood. They acted very promptly as soon as they were notified of the flooding, obtained professional advice on each occasion on an urgent basis and then acted on that advice and completed repairs.

25. While I do not find that there has been a breach by the landlords, I am of the view that there should still be some compensation paid to the tenants for the loss of amenity. The reality is that the tenants were paying rent of $600 per week in circumstances where water was coming inside, and the carpet was wet in one of the bedrooms. They also had the inconvenience of works being done outside their door with associated noise and disruption.

26. I consider that the tenants are entitled to compensation in the amount of $600 being one week of rent. This compensation recognises that the tenants had reduced amenity value for approximately 2- 3 weeks while the repairs were being done and the drying continued, and also takes into account the fact that

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[1] *Collins v Professionals Hutt City Ltd, District Court Wellington, CIV 2009-085-1431, 24 February 2010*

the tenants would have had increased power use while running the fan and dehumidifier.

27. I do not consider that the tenants are entitled to compensation for any belongings. It is prudent for tenants to have contents insurance to cover any unexpected event. While the Tribunal may award compensation to tenants for damaged to items that has occurred due to a breach of the landlord's obligations, that is not the case here.

28. I accept that the parties did discuss a potential payment in this regard (which the landlords referred to as a "goodwill" payment) but as the parties have left the determination of this matter to the Tribunal I am not prepared to make an award based on discussions which were ultimately not agreed and in circumstances where I do not consider that the landlords are liable. I find it more likely than not that the water that entered was simply rainwater (based on the photos and the issue as identified for repair) and so do not consider that the landlords are liable to replace the tenants' dehumidifier.

Final issues

29. The tenants have succeeded in having their bond refunded and have received some compensation for loss of amenity. They have therefore substantially succeeded in their claim and I have reimbursed the filing fee.

30. The tenants also sought an order for name suppression and are entitled to an order pursuant to section 95A as the substantially successful party.

M Allan
16 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.