TENANCY TRIBUNAL AT [Event location suppressed]

APPLICANT:	[The applicant/s] Landlord
RESPONDENT:	Rosemarie Sonja Kaa Turner, Natasha Selina Gosnell Tapiki Tenant
TENANCY ADDRESS:	[Tenancy address suppressed]

ORDER

1. An application for suppression has been made in this case, and the Tribunal orders suppression of the landlord's name and identifying details.
2. Rosemarie Sonja Kaa Turner and Natasha Selina Gosnell Tapiki must pay [The landlord/s] $1,625.34 immediately, calculated as shown in table below.

Description	**Landlord**	**Tenant**
Cleaning: and carpet cleaning	$741.00	
Lock/key replacement	$218.90	
Rubbish removal	$422.04	
Repairs: Garage door	$216.40	
Filing fee reimbursement	$27.00	
Total award	**$1,625.34**	
Total payable by Tenant to Landlord	**$1,625.34**	

3. The balance of the claim is dismissed.

Reasons:

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1. The landlord attended the hearing by video call.

2. For ease of reference, I will refer to the tenants in the singular.

3. The tenant was telephoned on the phone numbers provided but the phone calls went to voice mail. I am satisfied the tenant was properly served with the application and notice of the hearing. The hearing proceeded in their absence.

4. The landlord has applied for compensation and reimbursement of the filing fee following the end of the tenancy.

RELEVANT LEGAL CONSIDERATIONS

5. The relevant law that applies is found in the Residential Tenancies Act 1986 ("RTA**"**).

Evidential burden

6. With any claim before the Tenancy Tribunal, the Tribunal applies the usual civil law standards and expectations:

   a. That includes a requirement that the applicant, establish their claims on the balance of probabilities. The balance of probabilities means more likely than un-likely, or in mathematical terms, has a fractionally more than 50% likelihood.

   b. The Tribunal does not need to be certain or very sure about any claim, only that what is claimed is likely. This obligation carried by the applicant is referred to as the "burden of proof". Independent witnesses, corroborating documents and photographs are an important part of discharging this burden.

   c. As noted by the District Court in *Kaipo v Clarke & McCarthy* (DC) TT233/02, in practical terms this means that: … "[L]ike anyone who brings an application before a Tribunal or Court, it is incumbent upon the applicant to provide the evidence necessary to prove the case. If the applicant fails to do that, then their application will be dismissed whether it has merit or not because it is up to the applicant to provide the necessary evidence. It is not up to the other parties, and it is certainly not up to the Tribunal to extract evidence."

   d. The more serious the claims made the greater the evidential burden on the applicant will be.[1]

Compensation

7. The Tribunal may award compensation to a party for losses arising from a proven breach or breaches by the other party of their statutory responsibilities under the RTA. Compensation is generally awarded for actual losses and sometimes for less tangible effects of proven breaches such as a loss of enjoyment of the tenancy and the accompanying stress and anxiety.

[1] *Z v Dental Complaints Assessment Committee* [2008] NZSC 55.

TENANT'S OBLIGATIONS

8. At the end of the tenancy the tenant must:
    a. remove all his or her goods from the premises,[2]
    b. leave the premises (including the land provided with the premises) reasonably clean and tidy, [3]
    c. remove all rubbish, and [4]
    d. return all keys and security devices. [5]

CLEANING AND RUBBISH REMOVAL

9. When considering a claim for cleaning the following principles generally apply:
    a. There is no scientific way to determine what is 'reasonably' clean and tidy, what is required is for the Tribunal to evaluate the evidence available (particularly photographs presented), and then to determine whether the premises would be reasonably clean.
    b. The Tribunal will also consider factors such as the length of the tenancy, and the general condition of the premises (for example, surfaces that are new and in a good condition will be easier to clean than older and worn surfaces, particularly with paint work).
10. The tenant did not leave the premises reasonably clean and tidy and did not remove all rubbish. A significant amount of rubbish and other items of likely no value were left at the premises. The landlord also said the tenant had two large dogs and there was a strong odour in the premises at the end of the tenancy. The landlord provided photographs which show some marks on the carpet.
11. The amount ordered is proved with the end of tenancy inspection report and invoices.

LOCKS AND KEYS

12. The tenant did not return the keys. The amount ordered is proved with an invoice and oral evidence.

TENANT'S RESPONSIBILITY FOR DAMAGE

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[2] See section 40 (1)(e) (ii) of the RTA.
[3] See section 40 (1)(e) (iii) of the RTA.
[4] See section 40 (1)(e) (iii) of the RTA.
[5] See section 40(1)(e)(iv) of the RTA.

13. When considering a claim in respect of damage to the premises the following principles apply:

    a. A tenant must not intentionally or carelessly cause damage or permit any other person to damage the premises.[6] Where a landlord is claiming compensation for damage a landlord must prove that damage to the premises occurred during the tenancy and is more than fair wear and tear.

    b. If this is established, to avoid liability, the tenant must prove they did not carelessly or intentionally cause or permit the damage.

    c. Tenants are liable for the actions of people at the premises with their permission. [7]

    d. Fair wear and tear can be described as damage which might reasonably be expected to naturally occur over time, such as the deterioration or gradual wear occurring with everyday use. [8]

    e. 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). [9]

    f. 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).[10] Where insurance money is irrecoverable because of the tenant's conduct, the property is treated as if it is not insured against the damage.[11]

    g. 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. [12]

    h. 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.[13]

    i. In assessing a claim for compensation, I must take into account betterment and depreciation. The landlord should be returned to the position they would have been in had the tenant not breached their obligations and should not be better or worse off. In calculating depreciation, I must take

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[6] See s 40 (2)(a) of the RTA.
[7] See sections 40(2)(a), 41 and 49B RTA.
[8] See *Taylor v Webb* [1937] 2KB 283 (CA).
[9] See section 49B(3)(a) RTA.
[10] See section 49B(3)(b) RTA.
[11] See section 49B(3A)(a) RTA.
[12] See section 49B(1) RTA.
[13] See *Guo v Korck* [2019] NZHC 1541.

into account the age and condition of the items at the start of the tenancy and their likely useful lifespan.

IS THE TENANT RESPONSIBLE FOR THE DAMAGE TO THE PREMISES?

14. The following damage was caused during the tenancy:

    a. The garage door was damaged by the tenant which caused it to come out of alignment which affected the mechanism causing it to not open and close. The landlord said the tenant acknowledged damaging the door during the tenancy. The landlord said the damage did not appear to have been intentional and was likely caused carelessly.

15. The damage is more than fair wear and tear, and the tenant has not disproved liability for the damage. The amount ordered is proved.

16. The landlord also claimed $750 to rehang curtains and replace a blind. Photographs of the damage at the end of the tenancy were submitted. The amount claimed is the landlord's insurance excess in respect of a claim that the landlord said was approved by the landlord's insurer in respect of the damage. The landlord did not provide an invoice in support of the claim or confirmation of the approval of the claim. The landlord could also not advise the age of the curtains. I consider there is insufficient evidence in support of the claim for curtain and blind damage and this claim is dismissed.

FILING FEE

17. As the landlord as partly succeeded with the claim, I have reimbursed the filing fee.

SUPPRESSION

18. The Tribunal must, on the application of a party that has wholly or substantially succeeded in proceedings, order that the party's name or identifying particulars not be published, unless the Tribunal considers that publication is in the public interest or is justified because of the party's conduct or any other circumstances of the case. [14]

19. The landlord sought name suppression and as they have been substantially successful with the claim, I order the landlord's name to be suppressed.

N Bradley
19 September 2025

[14] See section 95A (1) of the RTA.

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.