[2025] NZTT 5230892

TENANCY TRIBUNAL AT [Event location suppressed]

APPLICANT: [The applicant/s]

Landlord

RESPONDENT: [The respondent/s]

Tenant

TENANCY ADDRESS: [Tenancy address suppressed]

ORDER

1. The Tribunal orders suppression of the parties names and identifying details.
2. [The tenant/s] must pay [The landlord/s] $631.74 immediately, calculated as shown in table below.
3. The Bond Centre is to pay the bond of $4,320.00 ([Bond number suppressed]) to [The landlord/s] immediately.

Description	**Landlord**	**Tenant**
Rent arrears to 30 April 2025	$4,782.86	
Water rates to 31 March 2025	$141.88	
Filing fee reimbursement	$27.00	
Total award	**$4,951.74**	
Bond	$4,320.00	
Total payable by Tenant to Landlord	**$631.74**	

4. [The tenant/s] must pay [The landlord/s] $631.74 immediately, calculated as shown in table below.

Description	Landlord	Tenant
Compensation – cleaning costs	$753.25	
Compensation – rubbish removal	$899.00	
Total award	**$1,652.25**	
Total payable by Tenant to Landlord	**$1,652.25**	

5. The balance of the claim is dismissed.

Reasons:

1. The landlord and the property manager attended the hearing.
2. Both tenants attended the hearing. I will refer to the tenants as the Withdrawn Tenant and the Remaining Tenant and for ease of reference may refer to them in the singular in this decision.
3. As the proceedings relate to a withdrawal from a tenancy under section 56B of the Residential Tenancies Act 1986 (RTA), the Tribunal ordered that the whole of the hearing be held in private, prior to the remote hearing. This was confirmed at the hearing.[1]
4. The tenancy commenced on 4 March 2024. The Withdrawn Tenant served the landlord and the Remaining Tenant with a withdrawal from the tenancy pursuant to section 56B of the RTA. The expiry date of the notice period of the withdrawal was 30 April 2025.
5. The Remaining Tenant was not residing in the premises at the time of the withdrawal, but as I address later in this decision, the tenancy agreement had not changed prior to the withdrawal to remove her as a tenant.
6. The landlord has applied for rent arrears, water and wastewater invoice usage charges, compensation for cleaning costs, rubbish removal costs, a missing fridge/freezer and a wardrobe, payment of the bond, and reimbursement of the filing fee following the end of the tenancy.

RELEVANT LEGAL CONSIDERATIONS

7. The relevant law that applies is found in the Residential Tenancies Act 1986 (RTA). With any claim before the Tenancy Tribunal, the Tribunal applies the usual civil law standards and expectations.
8. 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.

[1] See section 95 of the RTA.

9. 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.

10. 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.”

11. I note that I have reviewed all the documentation provided but will only refer to what is relevant to the issues for determination. I note that it appeared The Withdrawn Tenant had not received evidence provided by The Remaining tenant before the hearing. I had the registry send them the relevant submission and allowed them the opportunity to provide a response after the hearing.

Compensation

12. 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.

HOW MUCH IS OWED FOR RENT?

13. The landlord seeks rent arrears until 30 April 2025. This is the expiry date of the withdrawal notice period. [2]

14. The tenant must pay the rent as and when it is due and payable under the tenancy agreement.[3]

15. The landlord provided rent records which prove the amount owing at the end of the tenancy being **$4,782.86** to 30 April 2025.

16. Both parties are jointly and severally liable for the rent arrears until 30 April 2025 and I make an order for the rent arrears as sought by the landlord.

17. The Withdrawn tenant did raise that he had completed some work on the property and suggested he should be compensated for this which should off-set the rent arrears. There was no cross application in respect of this therefore I was unable to hear this claim.

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[2] See section 56B (1) of the RTA.
[3] See section 40 (1)(a) of the RTA.

HOW MUCH IS OWED FOR WATER RATES?

18. The landlord is responsible for all outgoings in respect of the premises that are incurred whether or not the premises are occupied; and are incurred for common facilities. This includes rates, insurance and body corporate fees.[4]

19. The tenant is responsible for all outgoings in respect of the premises that are exclusively attributable to the tenant's occupation of the premises or to the tenant's use of the facilities. This includes electricity and gas, telephone and internet and the supply of water if the water supplier charges for water provided to the premises on the basis of consumption.[5]

20. The Withdrawn Tenant said he believed the landlord had said they would not pursue the water rates at the first hearing.

21. I advised the parties I would review the transcript from the first hearing. I confirm the landlord's said they are seeking the final water rates claimed at this hearing but no additional water rates (ie from 31 March 2025 to 30 April 2025).

22. The Withdrawn Tenant raised a concern that there may have been a discrepancy in the water rates invoices. After the hearing the landlord provided the water rates invoices from Water care and the invoices provided to the tenant. I have reviewed the invoices, and the landlord has correctly only invoiced the water consumption and wastewater consumption charges.

23. The landlord provided a water rates invoice which prove the amount owing for 3 March 2025 to 31 March 2025 and I make an order for the amount claimed of **$141.88.**

24. In the absence of any further evidence as to any discrepancies with the water rates I find the landlord has proven the claim for water rates. As the water rates relate to the period prior to the Withdrawn Tenant withdrawing from the tenancy, both tenants are liable for the water rates.

FAMILY VIOLENCE WITHDRAWAL

25. The Withdrawn Tenant withdrew from the tenancy pursuant to s 56B of the RTA. The Withdrawn Tenant served the withdrawal on the landlord 27 April 2025.

26. I understand the Remaining Tenant was served with the withdrawal on 2 May 2025 however, quite properly, the landlord informed the Remaining Tenant of the withdrawal on 1 May 2025 and I understand they were informed they were responsible for the obligations of the tenant under the RTA.

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[4] See section 39 (1) and (2) of the RTA.
[5] See section 39 (3)-(4) of the RTA.

27. Section 56B of the RTA relates to withdrawals from tenancies following family violence. Section 56B (1) of the RTA says a tenant under a fixed-term or periodic tenancy may withdraw from the tenancy by giving at least 2 days' notice to the landlord if they give notice in the approved form with qualifying evidence.

28. Section 56B (2) of the RTA says if there are no other tenants under the tenancy at the time of the withdrawal, the tenancy terminates.

29. Section 56B (3) of the RTA says if there are other tenants (remaining tenants) under the tenancy at the time of the withdrawal, the tenant withdrawing from the tenancy (the withdrawing tenant) ceases to be responsible to the landlord for obligations under the tenancy agreement and this Act, except in respect of any liability for anything done or omitted to be done before the withdrawal; and

    - the tenancy continues in relation to the remaining tenants only; and
    - the withdrawing tenant must give each remaining tenant notice of the withdrawal no later than the close of the day that is 2 days after the date of the withdrawal; (however section 56(4) of the RTA says a failure to provide this notice does not affect the validity of the withdrawal), and
    - the amount of rent for which the remaining tenants are liable is reduced as out pursuant to a calculation set out in section 56B (5) of the RTA.

30. I understand the Remaining Tenant had vacated the premises in March 2025 therefore prior to the notice of withdrawal being served on them.

31. While the Remaining Tenant was not living in the property, I consider the tenancy agreement was not varied to remove them as a tenant and they are a remaining tenant for the purposes of section 56B of the RTA. What this means is that I consider the Remaining Tenant is responsible to the landlord for obligations under the tenancy agreement and the RTA, except in respect of any liability for anything done or omitted to be done before the withdrawal.

32. I therefore consider only the Remaining Tenant is liable for the cleaning, rubbish removal and removal of donated items (effectively chattels) (tenant's obligations), at the end of the tenancy.

33. Section 50 of the RTA sets out the circumstances in which tenancies are terminated. In this case the landlord effectively accepted the surrendering of the tenancy[6] from the Remaining Tenant and allowed them additional time to attend to the tenant's obligations at the end of the tenancy.

[6] See section 50 (d) of the RTA,

34. I find the Withdrawn Tenant is not liable for the tenant's obligations as they relate to a period after the family violence withdrawal notice period had expired, and there is no evidence to suggest that the Withdrawn Tenant was aware that the landlord would treat 30 April 2025 as effectively the termination date or of any written agreement with the Withdrawn Tenant with that approach.

TENANT'S OBLIGATIONS

35. At the end of the tenancy the tenant must:

    a. remove all his or her goods from the premises,[7]

    b. leave the premises (including the land provided with the premises) reasonably clean and tidy, [8]

    c. remove all rubbish, [9]

    d. return all keys and security devices, [10]

    e. leave all chattels provided for their benefit. [11]

    f. replace worn out smoke alarm batteries during the tenancy, and[12]

    g. replace standard light bulbs.

CLEANING AND RUBBISH REMOVAL

36. 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.

37. 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).

38. Reasonably clean means clean to the standard an average, reasonable bystander would consider reasonable.[13] Reasonably clean does not mean commercially clean.[14] Reasonably clean does not mean spotless to a hotel or motel standard.[15]

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[7] See section 40 (1)(e) (ii) of the RTA.
[8] See section 40 (1)(e) (iii) of the RTA.
[9] See section 40 (1)(e) (iii) of the RTA.
[10] See section 40(1)(e)(iv) of the RTA.
[11] See section 40(1)(e)(v) of the RTA.
[12] See section 40(1)(ca) RTA and Residential Tenancies (Smoke Alarms and Insulation) Regulations 2016.
[13] *Housing New Zealand v Holloway* TT Auckland TT215/93, 8 February 1993 at page 8
[14] *Mills v Kiwi Property Care Ltd* TT Hamilton 09/01418/HN, 27 July 2009
[15] *Richards v Scully* TT Christchurch TT2043/98, 21 July 1998.

39. There is no requirement that each and every individual item in the premises be left “reasonably” clean and tidy, only an overall obligation in relation to the tenancy premises. The standard of “reasonably clean” anticipates that some parts of the premises may not be perfect.

40. Reasonably clean is not necessarily to the standard a landlord considers acceptable for a new tenant.[16] A landlord may often decide to clean premises to a higher standard than that required from the outgoing tenant before re-tenanting or selling; for example, by rigorously cleaning all walls, ceilings, lightshades, skirtings, window and door sills, plugs and drains, silicone edging, behind fittings and appliances, and the outside of windows and of the house. However, a landlord is only required to provide tenancy premises in a reasonable state of cleanliness[17]so the next tenant cannot insist that premises are presented to a higher standard. If a landlord chooses to do so, perhaps to attract tenants, then that is a business decision that they are entitled to make at their cost.

41. The landlord seeks compensation for cleaning costs and rubbish removal.

42. The tenant did not leave the premises reasonably clean and tidy and did not remove all rubbish.

43. The tenant suggested that when they moved into the premises that it was not reasonably clean and tidy, however no corroborating evidence, such as photographs, was provided in support of this.

44. In addition, the Withdrawn Tenant enquired as to whether the rubbish removal included the removal of the dishwasher and clothes dryer. The landlord has confirmed that the rubbish removal did not include these items, for which the landlord was responsible for.

45. The amount ordered is proved with the final inspection report, end of tenancy photographs of the rubbish and invoices.

46. The amount ordered for cleaning costs is **$753.25** and rubbish removal of **$899.**

FRIDGE / FREEZER

47. The landlord claims compensation of $499 in respect of a fridge/freezer that was provided to the tenant on the following terms of the tenancy agreement:

> 39. Donated Item - Fridge/Freezer
>
> The Fridge/Freezer is not included in the chattels list and, it's use is donated to the tenant. Future repair and/or maintenance that may be required of fridge/freezer shall be at the option or expense of the

[16] *Ace Property Management Ltd v Owens* DC Wellington CIV -2008-1441, 17 December 2008
[17] See section 45(1)(a) RTA.

Tenant. or, the Landlord shall arrange removal upon the Tenant's request

48. The landlord says the fridge /freezer's use was donated at the start of the tenancy for the tenant to use but was to remain at the premises at the end of the tenancy. The landlord says the Fridge/Freezer was not left in the premises at the end of the tenancy. There is no indication that the fridge/freezer was no longer working, however neither party provided any evidence on this point. I gather the Withdrawn Tenant removed it from the premises when they vacated.

49. The IR265 (General depreciation rates) provides a refrigerator has an estimated useful lifespan of 8 years. The landlord said the fridge/freezer was approximately 15 years old. The fridge/freezer had therefore well exceeded its useful lifespan.

50. Only a quote has been provided. The Tribunal takes a cautious approach when quotes are provided as the actual cost has not been established and the landlord may not actually pay to replace the items.

51. The landlord has sold the premises and has not replaced the Fridge/Freezer. Because the landlord has not replaced the fridge/freezer and in having regards to depreciation, I consider the landlord has not established a loss and the claim is dismissed.

WARDROBE

52. The landlord claims $1,500 compensation for a wardrobe the landlord says was provided for the tenant at the start of the tenancy and removed by the tenant at the end of the tenancy.

53. The landlord provided pre-tenancy and post-tenancy photographs to confirm that the wardrobe was provided with the tenancy.

54. The tenant did not dispute that there was a wardrobe provided with the tenancy. The issue is that it appears the tenant believed that the wardrobe was provided as a donation for them to keep and did not appreciate that it needed to remain at the premises at the end of the tenancy.

55. The landlord has not provided the receipt from when the wardrobe was purchased or any quote or estimate of a replacement cost for the wardrobe.

56. The landlord said the wardrobe was 15 years old and the compensation claimed is based on the purchase price at that time.

57. Because the landlord has not provided the invoice or quote or estimate to replace the wardrobe, I consider that I cannot make any assessment on what compensation may be reasonable and therefore there is insufficient evidence to support the claim. The claim in respect of the wardrobe is accordingly dismissed.

BOND

58. At the hearing the landlord sought payment of the bond. The bond is to be paid to the landlord immediately to offset the rent arrears.

FILING FEE

59. If an applicant has been partly successful in their claim, the Tribunal may order that the respondent pay the applicant the filing fee paid for the application.[18]

60. As the landlord has partly succeeded with the claim, I have reimbursed the filing fee. I find both tenants are liable for this cost as it was incurred before the Withdrawn tenant's liability ended.

SUPPRESSION

61. The Tribunal must, in any proceedings that relate to a withdrawal from a tenancy under section 56B RTA, order that the name and any identifying particulars of the parties not be published.[19] Accordingly, both parties' names and identifying details are suppressed.

N Bradley
22 September 2025

[18] See section 102 (4)(b) of the RTA.
[19] See section 95A (1A) 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.