[2025] NZTT 5117928

TENANCY TRIBUNAL AT NELSON | TE TARAIPIUNARA RETIHANGA KI WHAKATŪ

APPLICANT:	Kāinga Ora–Homes And Communities Landlord
RESPONDENT:	Paula Ann Trainor Tenant
TENANCY ADDRESS:	89B Scotia Street, Wakatu, Nelson 7011

ORDER

1. The tenancy of Paula Ann Trainor at 89B Scotia Street, Wakatu, Nelson 7011 is terminated, and possession is granted to Kāinga Ora–Homes And Communities, at 8pm Sunday 26 October 2025.

Reasons:

1. Both parties attended the hearing, conducted via teleconference. Mr Jason van Gent represented the landlord. The landlord's local housing manager, Mr Steve Hanniman, was called during the hearing.

2. The tenant stated she was alone when asked at the commencement. Later it became obvious that she had someone else with her and Mr Vaughn McCallum introduced himself when so questioned (he is the partner of the tenant and confirmed as such by other witnesses). He was accepted as a support person but as the hearing progressed his role extended due to occasional challenges Ms Trainor believed she was having in making herself understood due to a head injury she stated had been caused by an accident on 10 August 2025. He was granted limited speaking rights to assist Ms Trainor in responding.

3. This was a continuation hearing after an order dated 18 July 2025 provided a 90-day window within which the landlord could request the matter be reopened if further related tenant failures occurred. This option was taken up by the landlord; requested on 1 September 2025.

4. The landlord has applied for termination of the tenancy for breach of the tenant's obligations.

5. A prior order, dated 28 March 2025, had terminated the tenancy. That order was made after previously adjourning the matter for the tenant to remediate multiple breaches.

6. In the order granting the rehearing (2 May 2025) that adjudicator noted:

   [4] I consider that it is likely that Ms Trainor was unable to attend the hearing on the as her phone was not working properly. She tells me that since that time she has purchased a new phone.

   [5] Ms Trainor tells me that if she had attended, she would have been able to speak to the evidence that the landlord presented and show a video of compliance with the breach notices.

   ….

   [10] I have made it clear to both parties that if the landlord considers that the tenant is still in breach of her obligations that they can issue further breach notices. I have also told the tenant that it would be unwise for her to repair cars on her berm whilst waiting for a hearing.

7. At the date of my first hearing (in person) on 3 July 2025, based on a notice dated 4 April 2025, the remaining tenancy issue was disruption to neighbours from noise related to mechanical work on vehicles. There had been some effort to remove items and rubbish from within the fenced area as shown in photos.

8. While the rehearing with me allowed Ms Trainor to speak, she failed to provide any evidence, including video, that she had indicated a desire to do so when requesting the rehearing.

9. It is impracticable for me to recite all the evidence in detail and I will not do so unless it is necessary, but the parties should know it has been considered.

Should the tenancy be terminated?

10. The order dated 28 March 2025 terminated the tenancy after an adjourned period to allow compliance by the tenant with the requirements as specified in a prior order (25 January 2025). In later terminating the tenancy, the adjudicator noted, "Given the nature and extent of the breaches—ongoing vehicle repairs, untidiness, and disregard for previous warnings—it would be inequitable to refuse termination. Ms. Trainor had ample opportunity to comply but failed to do so."

11. The tenant had breached their obligations again since the rehearing was granted. The landlord evidenced this with a number of photographs. The grounds for termination for a failure to remedy remained.

12. I needed at my first hearing to consider afresh if it would be inequitable to refuse to terminate the tenancy. I had the benefit of hearing directly from Ms Trainor – an opportunity denied the last adjudicator.

13. I heard then from Ms Trainor of a number of reasons or justifications for the delays in remedying. She also believes some noise complaints arose from activities at a neighbouring property rather than hers.

14. The remaining issue I considered at the 3 July hearing was the ongoing, improper use of the premises and verge at the front of the property. The landlord detailed this in a letter to the tenant dated 4 April 2025:

> **Details of the breach**
>
> We have been trying to contact you regarding recent disruptive behavior in your neighborhood, specifically related to excessive noise caused by machinery during mechanical work on vehicles. The noise, which has been occurring during evenings and weekends, is described as being more frequent than typical personal vehicle maintenance. It involves continuous work on multiple vehicles, often late into the evening, and includes the use of power tools such as grinders and drills.

15. The tenant submitted some neighbours were confused as where some noise originates from, believing a source was a neighbouring light industrial building to her northern boundary. I noted in my last order that better evidence of the origin and extent of any future noise complaints would assist any landlord application for orders pertaining to such breaches.

16. With the benefit of hearing the tenant submissions on 3 July 2025, I, by the finest of margins, accepted the tenant promise to no longer conduct or permit such actions or activities at the premises. At that time, I did not consider the tenant breaches were of such a nature or of such an extent that it was inequitable to refuse to make an order terminating the tenancy then, on the basis a change had occurred. I provided for this application to come back before me within 90 days in case of any further, related breaches. Improvement and compliance is often best assessed over time. I was also mindful that such breaches at that time might be reduced by seasonal (winter) factors rather than any tenancy improvement.
17. The landlord cited one significant failure by the tenant since the 18 July order in requesting the matter be reopened. That event is considered below, and within the historical context of this tenancy operation, prior hearings and orders.

What happened during 11/11 August 2025?

18. On 14 August 2025 the landlord wrote to the tenant. In that letter it stated:
    a. On the night of Sunday August 10th, into the early hours of Monday August 11th, a group of individuals worked on vehicles in your driveway until approximately 4:00am in the morning.
    b. During this time, neighbours reported that general noise of mechanical activity could be heard, and a loud scooter engine revving throughout the night.
    c. Kāinga Ora had received multiple complaints from several neighbours regarding this.
19. The hearing heard submissions and reviewed short videos from both parties.
20. The landlord provided two written witness statements from immediate or near neighbours. Another neighbour was available to be called. All three witnesses were called during the hearing.
21. The tenant had provided a statement from one person who lived locally and while too far to away to be considered close, walked or drove past the premises frequently.

The neighbours account.

22. All three witnesses confirmed activity and noise from the premises from Sunday afternoon until approximately 4am Monday 11 August 2025. Historic behaviours were raised at times by them but their attention was refocused on the event in August, or other events since the previous order of 18 July 2025.
23. One neighbour wrote in an email to the landlord on 12 August 2025 that the tenants of this house were up until 4 am in the morning on the 10 and 11th of August “revving a Honda car and a scooter with no exhaust pipe”. That email

was a follow-up in writing to a prior telephone conversation and request for it from Mr Hanniman.

24. Mr Hanniman had summarised to the tenant their prior conversation afterwards in a reply email as:

> Thank you for speaking with me today. My understanding of our conversation is that there was regular work on vehicles the past three nights at 89B Scotia, and on the night of August 10/11 there was work on a scooter, revving the engine until around 4 am. You have described the people working on the car as being very aggressive and not approachable. Could you let me know in writing your description of the events?

25. This witness spoke with of other recent occasions where nocturnal disturbances were heard and or seen coming from the premises. He stated he was away during the Sunday and returned around 5pm. On return he saw cars with bonnets up and such, one across the garage door, another one across the road. Later that night he walked out after hearing noises and observed a person he believes to be Mr McCallum with a light on under a bonnet working on a car. This activity was not observed by the third witness who lived near that area.

26. A second neighbour engaged with Mr Hanniman. On 13 August, a follow up email from that neighbour recounted:

> Hi steve
> As discussed on our phone calls.
> I wish to complain about the continuing disturbance of 89 scotia street. On the night of August 11th there was working of cars and scooters until the early hours of the morning, about 4am. This includes use of power tools, music and revving of scooters and cars, unfortunately this is a very common occurrence. Other things that take place at 89 scotia street on a daily basis are,
> - Using the side walk and road to work on beaten up car and motorcycles
> - Burnouts

27. The above email also raised historic issues, or claims that have never been evidenced before. As such, these were not claims given weighing in the matter at hand and have been cropped from the screenshot above. The main point taken was further confirmation of the timings and type of disturbances as raised by the first neighbour.

28. Ms Trainor claimed this neighbour has previously indicated an intention to cause her problems with the tenancy. No evidence of that was submitted.

29. The third witness called by the landlord lives directly across from the premises. She also confirmed noise until the early hours, although less certain of the exact time – the range given of between 3am and 5 am fits the others evidence.

30. Mr van Gent asked this witness about her observation that this is a busy street with a lot of traffic. When asked specifically about the source of the ongoing noise on the Sunday night she identified both the premises and the street. Regarding the scooter, she said it may have been a scooter or similar engine. She said she could hear it “occasionally going all the way down the street and

then all the way back up. And then other times they were obviously just trying to work to get it going so you could hear it. There was a lot of ticking over of the motor, like that kind of sound."

31. When asked about her locating of the source she responded, "It was directly across the road and I kind of peeped out my window a little bit and I could see them and the light was on." I asked what could be seen through the window and she replied, "Just lots of lights and people moving around and people talking."

32. Lastly, Mr Harriman was called. He is the local housing manager and was directly involved in the management of this tenancy, as well as with other landlord properties in the area.

33. He commented that the most recent incident raised was the most concerning one over the past few weeks since the original application was closed in July. The landlord, he said, had been keeping an eye on the property and he had some prior situations where he had driven past and there someone working on a vehicle with the hood up, some battery cables being used or a tyre being changed. He had not felt those required raising at the time but he did say that almost every time he passed the property there seemed to be something going on.

34. After the early morning events of 11 August, he received a call first thing at work that morning from a neighbour who said that there was some loud noise from the middle of the evening until later into the evening, described as loud talking, swearing, and tools being used.

35. Given the tenancy history and prior complaints from neighbours, he called at least two of them seeking confirmation of what he had been told. He said they all did describe that evening consistently, recounted as being general noise, general tool use, loud talking throughout the evening and sounds of an engine starting and stopping over and over.

36. When asked about the neighbouring light industrial property, he said that often when he drives by during the day the front doors are closed. He has never had someone complain about noise from that property. He said the neighbours he has spoken with were confident that the noise had been coming from the tenancy address subject to this application.

37. Regarding the short videos provided, one from each party, I do not consider either to be accurate enough to add or refute anything in the witness accounts provided.

The tenant's account and witness

38. The tenant initially submitted she had a bad e-scooter accident and was hospitalised prior to the timeframe in question. She stated the premises was empty as her children were staying with her mother while she was in hospital.

39. This stance was later contradicted or corrected by Mr McCallum. Such confusion might be accounted for, at least in part, by the head injury sustained. Given the injury, and Mr McCallum's confirmed continued presence at the premises during this period, he was treated as a witness for the purposes of recounting his experiences and observations during that period. This was less than ideal given his attendance at the hearing to date, but the landlord agreed with the approach adopted.

40. Mr McCallum initially stated there cannot have been anybody working on anything as he was actually there with the children. He said the children were already in bed.

41. He recalled that on Sunday 10 August during the day, he had a friend come over and ask if he could assist with working on the WRX at his house. Mr McCallum stated he was back and forth, getting tools and things and then going back over across the other side of town, helping his friend out with the car there.

42. There was moment around 3:30-4 pm when he returned to remove the clutch slave cylinder off his white Subaru. He said that car was out in front of the garage. He acknowledged another vehicle there would have had its bonnet up. He said that was due to the fact that the battery had "cooked itself". It had dropped the cell and he needed to replace the battery because the car would not start, so he could not get back to where he was going.

43. Mr McCallum said he got home around 6:30pm and dinner was just being finished up. Ms Trainor then popped out on an e-scooter when shortly afterwards, and very close to the premises, her accident happened. He said there were no other adults at the property at that time.

44. He said he found out about the accident via a friend that was coming over to talk to him about paint because his friend is a paint and body specialist, he wanted advice on getting a car prepped for painting. The accident happened as his friend was on his way over and the friend recognised Ms Trainor as he drove by, informing Mr McCallum on arrival. They both went to the scene of the accident.

45. I asked him who was left with the children. He then recalled another friend, Justin. He said Justin pops in from time to time and he remembered "him being here for a bit, usually for about 45 minutes at one point". He said Justin was able to watch the kids while he just "quickly shot around the corner" to the accident scene. An ambulance attended and Mr McCallum accompanied Ms Trainor in it to the hospital. He said his friend went back to the house to "hold it

down" until he was able to get home. It is unknown when Justin left the premises.

46. He estimated he left the hospital and returned home around midnight. He had no phone or device to be sure of the time.

47. I asked what he observed when he returned, given the several witness statements regarding activity at the premises.

48. He did not recall many vehicles on the street that particular evening. He did remember his friend's car "sticking out so much cause he's got an old mark 2 Cortina".

49. He recalled not hearing noise coming from the garage as he walked up the path alongside the house. He often plays background music when in the garage. He works in there on small electronic devices like digital radio control cars.

50. He recounted he was stressed from the experience and had some food and shared a cigarette and some company with his friend in the garage. He estimated this was for about 15 minutes.

51. His friend then left and Mr McCallum went back inside and watched some YouTube videos until he fell asleep. He did not hear or awaken to any noise until his alarm went off in the morning.

Written letter

52. A written letter of support was provided by a more distant neighbour (350m away). In that letter the writer states It had been brought to their attention that there seems to be a faction within the vicinity of the tenancy address that would like the current tenant occupying this property evicted.

53. The writer believed this seems to revolve around the complainants' personal issues with the tenant renting this property. The letter notes that there was a time when they and others in the neighbourhood were appalled at the amount of what could only be described as 'debris and junk' that would consistently be piled up out on the berm and footpath. They had noticed a totally 'marked' difference in recent weeks regarding the turnaround and contrasting change in the tenant's positive attempt to clean up what was once commonly referred to as a public eyesore.

54. The writer's observations of more recent change were reflected in the last order when termination was declined at that time. It was nice to have further confirmation of that improvement. Unfortunately, the nature of the tenancy dispute now regarding 10/11 August events in particular, but not solely, is not one that the letter adds any direct weight to. I also note some hearsay recounting in the statement.

55. In response to the witnesses or landlord evidence, Ms Trainor highlighted the point made by one that it is a busy street. Regarding the property next door,

she claimed it to be a registered business but no evidence of this was made available. She said the person at that address has a truck parked at the front and he was working on that a few days prior as well as other vehicles and it was quite loud throughout the night.

Evaluation of evidence

56. The submissions, evidence and witnesses do not provide a consistent picture of recent events at the premises. It is left to me to decipher and evaluate these as best I can.

57. There are two main factors leading to a successful claim. The first is the burden/onus of proof which rests on the applicant; and the second is the standard of proof. For matters, such as this, heard by the Tenancy Tribunal, the civil standard of proof is applied, being what is on balance of probability. Meaning, I seek to answer the question: Is it more likely than not that the alleged event happened? Further, the evidence must be reasonable with no probable defects such as inconsistency or improbability. The evidence must be consistent and supported by other acceptable evidence.

58. By accepting the evidence of one person over that of another person, do not infer that I do not believe the first person's evidence, only that the evidence of the other person is more likely and may be supported by other evidence that makes it more likely.

59. For the landlord application to succeed I must find there have further instances of the tenant or others storing inappropriate items or vehicles, or conducting any unreasonable vehicular maintenance at the front of the premises since 18 July 2025.

60. I have found the evidence of the landlord and neighbours to be more consistent and compelling than the counter evidence and submissions of the tenant and Mr McCallum. I did consider that at least one witness for the landlord may have other motivations in making complaints, as submitted by the tenant.

61. I have carefully reviewed everything provided. I find that the landlord has proven it as more than likely that further, unreasonable vehicular maintenance at, or near, the premises by the tenant or others with her permission has occurred. I consider it more likely than not the events and noise have originated at the premises and not at the neighbouring site.

Conclusion

62. This has been a tenancy with a number of historic issues. These have been considered and determined now over two adjudicated hearings. I accept there has been some improvement. My last order provided a final chance for Ms Trainor to demonstrate changed behaviours so the tenancy might continue.

That order concluded with an encouragement to the tenant to focus on not repeating what have been her historic failures and ensure this application remains closed so the tenancy might continue.

63. Ms Trainor had commented at a previous hearing that the premises is not suited to her. The impacts from this tenancy on neighbours during 10 and 11 August 2025 appears to confirm the unsuitability.

64. I find that it would be inequitable to continue to deny the landlord termination of this tenancy due to the tenant's failure to remedy.

65. The tenancy is terminated. Possession returns to the landlord at 8pm Sunday 26 October 2025.

66. This extended timeframe, beyond that requested by the landlord, is made to allow the tenant to make appropriate arrangements to exit. It is also extended in the expectation this tenancy will end without any further disruption to the tenants or neighbours.

M Brennan
24 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.