[2025] NZTT 5315639

TENANCY TRIBUNAL AT [Event location suppressed]

APPLICANT: [The applicant/s]

Landlord

RESPONDENT: Cassandra Bonyan-Grant

Tenant

TENANCY ADDRESS: Unit/Flat 9J, 189 Hobson Street, Auckland Central, Auckland 1010, Stanford Apartments

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. The tenancy of Cassandra Bonyan-Grant at Unit/Flat 9J, 189 Hobson Street, Auckland Central, Auckland 1010, Stanford Apartments is terminated, and possession is granted to [The landlord/s], at 11:59pm, Sunday 28 September 2025.
3. Cassandra Bonyan-Grant must pay [The landlord/s] $12,182.00 immediately, calculated as shown in the table below.

Description	**Landlord**	**Tenant**
Rent arrears to 21 September 2025 (less failure to mitigate loss)	$12,446.00	
Filing fee reimbursement	$28.00	
Total award	**$12,474.00**	
Bond	$292.00	
Total payable by Tenant to Landlord	**$12,182.00**	

4. The Bond Centre is to pay the bond of $292.00 ([Bond number suppressed]) to [The landlord/s] immediately.

Reasons:

1. The first hearing of this matter occurred on 18 September 2025 with both parties in attendance. An adjournment was granted for the landlord to amend their rent summary. I advised both parties at the hearing and again in an order dated 18 September 2025, that the matter would be scheduled for Wednesday, 24 September 2025 at 9:30am. Unfortunately, the tenant did not attend the hearing on 24 September 2025.
2. The landlord has applied for termination of the tenancy, rent arrears, refund of the bond and reimbursement of the filing fee. The issues I must determine are:
    a. Should the tenancy be terminated?
    b. How much does the tenant owe in rent arrears?
    c. Did the landlord fail to mitigate their loss?
3. As the applicant, the landlord must prove their claim to the civil law standard of proof, on the balance of probabilities.

Should the tenancy be terminated?

4. The landlord filed their application on 29 July 2025. Rent arrears were $15,498.00 (367 days) on this date. Because rent was more than 21 days in arrears on the date the application was filed, the tenancy is terminated.[1] The landlord agreed to set the terminate date to 11:59pm, Sunday 28 September 2025. This allows the tenant some time to vacate the premises.
5. At the last hearing, the tenant mentioned that they were in the process or liaising with Work and Income New Zealand (WINZ) to organise a redirection of their benefit, so they did not miss their rent again in the future. No evidence of this was submitted prior to the hearing on 24 September 2025. The tenant has not paid any rent since 5 December 2024. In these circumstances, I am not convinced on the balance of probabilities that the tenant will pay their rent when it is due in the future. This is not an appropriate case to make a conditional order for termination.[2]

How much does the tenant owe in rent arrears?

6. The landlord submitted a rent summary, which records rent arrears as being $18,668.00 up to 21 September 2025. I accept the landlord's rent summary as accurate and find the tenant owes $18,668.00 in rent arrears up to 21 September 2025.

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[1] Residential Tenancies Act 1986, section 55(1)(a).
[2] Residential Tenancies Act 1986, section 55(1A).

Did the landlord fail to mitigate their loss?

The law

7. Section 40(1)(a) of the Residential Tenancies Act 1986 (RTA) imposes an obligation on a tenant to pay rent as and when it is due and payable under the tenancy agreement.

8. Where a tenant fails to pay rent, section 49 RTA requires a landlord to take all reasonable steps to mitigate their loss.

9. In *Huang v Ashworth* [2024] NZDC 15726, the District Court discussed a landlord's duty to mitigate their loss in the context of rent arrears and held:

> [8] …[W]here the tenant fails to pay rent owing, there is an obligation on the landlord to mitigate the loss. This can be achieved by not allowing the arrears to continue to accrue, instead ending the tenancy and reletting the premises thereby preventing ongoing loss.
>
> …
>
> [11] Of relevance is s 55(1)(a) of the Act, which contains the power for a landlord to end a tenancy where rent is more than 21 days in arrears…

10. The District Court held that the test of what is required by a landlord to mitigate their loss is a factual one that requires the Court or Tribunal to consider:

> (a) whether the landlord took all reasonable steps to mitigate its loss; and
>
> (b) more particularly, whether it acted reasonably having regard to all the circumstances of the case.

11. The case of *Huang v Ashworth* involved a tenancy that began in 2019 and ended on 3 January 2023. Throughout a significant period of the tenancy, the tenant did not pay the full amount of rent and was in arrears. As of March 2022, the tenant was 13 weeks in arrears. Rent arrears continued to increase until the tenancy ended on 3 January 2023. The landlord sought an order for $10,000.00 in rent arrears.

12. The landlord in *Huang v Ashworth* had engaged in ongoing discussion with the tenant about payment of the arrears. At different times, arrangements were put in place for the tenant to pay the arrears, but the tenant did not adhere for any significant period of time. The tenant made numerous promises to the landlord to pay the arrears and would sometimes "top up" their rental payment to reduce the arrears, but never for a sustained period of time. The landlord continued to allow the tenant more time to pay the arrears, rather than seeking eviction. The District Court found the landlord's attempts to resolve the issue of rent arrears

without resorting to eviction were reasonable, but only up to a point. At paragraph [18], the District Court held:

> [18]… Where a tenant repeatedly breaches promises to make up arrears and instead additional arrears are incurred there comes a point where it is being naïve or careless to your own interests to persist giving the tenant more time to pay. For that reason, I do not consider that the full arrears can be claimed. In other words I am satisfied on balance of probabilities that there was some failure to mitigate loss…"

13. The District Court considered a reduction of one third of the total rent arrears claimed to be a reasonable reflection of the landlord's failure to mitigate their loss.

Analysis

14. I am convinced on the balance of probabilities the landlord failed to mitigate their loss. The landlord filed their application for termination and rent arrears with the Tribunal on 29 July 2025 when rent arrears were $15,498.00. This equates to 367 days' worth of arrears. Before filing their application, the landlord tried to engage with the tenant, but struggled to make contact. The landlord also sent one 14-day breach notice.

15. The landlord is a social housing provider. In *Huang v Ashcroft,* the District Court recognised that generally, more leniency is extended to social housing providers when considering whether they have acted reasonably to mitigate their loss. This is because social housing providers have a sense of social responsibility to try to keep people in tenancies that private landlords do not. This means it might be considered reasonable for social housing providers to take more time to try to deal with the issue of rent arrears personally, rather than seeking prompt eviction.

16. In this case, I find it was reasonable for the landlord to try to deal with the issue of rent arrears personally up to 2 March 2025. By this date, rent arrears were $9,018.00 (214 days) and no rent had been paid since 5 December 2024. It should have been obvious that rent was unlikely to be paid moving forward. Notwithstanding their responsibility as a social housing provider, I find it was naïve and careless for the landlord to not seek termination of the tenancy on or around 2 March 2025.

17. The landlord gave evidence there was an error with their accounting system, which meant they were unaware of the level of rent arrears until May 2025. That is unfortunate, but it does not affect my finding that they failed to act reasonably to mitigate their loss.

18. As in *Huang v Ashworth,* I consider a reduction of one third to the total level of rent arrears is appropriate.

19. The landlord's claim for rent arrears is granted for $12,446.00.

Filing fee & name suppression

20. Because [The applicant/s] has wholly succeeded with the claim I must reimburse the filing fee. For the same reason, I must also grant their request for name suppression.

L Ryken
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.

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.