[2025] NZTT 5263820

TENANCY TRIBUNAL AT REMOTE LOCATION | TE TARAIPIUNARA RETIHANGA

APPLICANT:	North Island Community Services Limited T/A Propertyscouts Whangarei As Agent For A Lindsay & M Tutty Landlord
RESPONDENT:	Benjamin George Horton, Destiny Hope Johnson Tenants
TENANCY ADDRESS:	69A Logan Street, Dargaville, Dargaville 0310

ORDER

1. Benjamin George Horton and Destiny Hope Johnson must pay North Island Community Services Limited T/A Propertyscouts Whangarei As Agent For A Lindsay & M Tutty $7,159.93 immediately, calculated as shown in table below.

Description	**Landlord**
Rent arrears to 06 May 2025	$396.43
Water rates	$498.58
Repairs: Front door glass pane, dining room window	$370.89
Rubbish removal	$1,972.25
Pest control	$345.00
Cleaning	$560.00
Cleaning: Curtains	$320.00
Repairs: Replace lock on screen door, repair screen door	$87.00
Replace furnishings: Laundry taps	$182.34
Lawns and Garden work	$264.50
Repairs: Wall and windowsill	$800.00
Other	$3,435.94
Filing fee reimbursement	$27.00
Total award	**$9,259.93**
Bond	$2,100.00
Total payable by Tenants to Landlord	**$7,159.93**

Reasons:

1. The hearing was conducted via video.
2. Ms de Beer attended the hearing for the landlord. Ms Sorensen from the same office was assisting Ms de Beer. Ms Sorensen did not address me.
3. The tenants, Mr. Horton and Ms. Johnson, did not attend. At the outset of the hearing, I confirmed with the property manager, Ms. de Beer, that her last direct contact with the tenants was on 7 May 2025, several months earlier, and that despite repeated emails, including as recently as this morning, the tenants had not responded.
4. I then attempted to contact both tenants directly. For Mr. Horton, I called his number ending in 2446 and left a voicemail explaining the purpose of the call and the nature of the hearing. For Ms. Johnson, I attempted to call the number ending in 4419, but the line appeared to be disconnected, as no ringing tone or voicemail was available.
5. Given their absence, the failure to engage with correspondence, and the unsuccessful attempts to reach them during the proceeding itself, I considered it appropriate to proceed in their absence.
6. The landlord has applied for rent arrears, compensation, refund of the bond, and reimbursement of the filing fee following the end of the tenancy.
7. Ms de Beer conducted the final inspection on 7 May 2025. The pre-tenancy inspection report, dated 17 June 2022, and the final inspection report, dated 7 May 2025, were filed with the Tribunal.

How much is owed for rent and water rates?

8. The tenancy ended on 06 May 2025. The landlord provided rent records and water rates invoices (between 1 February and 6 May 2025) which prove the amount owing at the end of the tenancy.

Did the tenants comply with their obligations at the end of the tenancy?

9. At the end of the tenancy the tenants must leave the premises reasonably clean and tidy, remove all rubbish, return all keys and security devices, and leave all chattels provided for their benefit. See section 40(1)(e)(ii)-(v) Residential Tenancies Act 1986. The tenants are required to replace worn out smoke alarm batteries during the tenancy. See section 40(1)(ca) Residential Tenancies Act 1986. The tenants must also replace standard light bulbs.
10. A significant claim related to rubbish removal and lawn cutting in the amount of $1,972.25. The tenants left behind a large quantity of household belongings, including furniture, nappies, food waste, and even a television. The landlord

produced a text message from Ms. Johnson expressly authorising her to “dump everything.” The lawns were too long to mow, and there was too much rubbish among the grass. The lawns were therefore weed-eaten and then re-mown to bring them to the required standard.

11. Ms. de Beer also relied on evidence of a cockroach infestation, visible in photographs of the dining room and kitchen cupboards. The cost of pest control was $345.

12. Two cleaning invoices were produced. The first, for $560, related to general cleaning of the house, which had not been left reasonably clean and tidy. The second, for $640, related to curtain cleaning, re-hanging, and new hooks. While I accepted the cleaning was required, I considered that the cost of new hooks should be shared, given the age of the curtains and the length of the tenancy. Accordingly, I apportioned the invoice equally, with the tenants to pay $320 and the landlord to bear the balance.

13. The tenants also failed to maintain the lawn and garden. The cost of this work was $264.50.

14. I am satisfied that the tenants did not leave the premises reasonably clean and tidy, and did not remove all rubbish.

15. The amounts ordered are proved.

Are the tenants responsible for the damage to the premises?

16. A landlord must prove that damage to the premises occurred during the tenancy and is more than fair wear and tear. If this is established, to avoid liability, the tenants must prove they did not carelessly or intentionally cause or permit the damage. Tenants are liable for the actions of people at the premises with their permission. See sections 40(2)(a), 41 and 49B RTA.

17. Where the damage is careless, and occurs after 27 August 2019, section 49B RTA applies. If the landlord becomes aware of the damage after 27 August, the damage is presumed to have occurred after that date unless the tenants prove otherwise.

18. Where the damage is caused carelessly, and is covered by the landlord's insurance, the tenants’ 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). See section 49B(3)(a) RTA.

19. 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). See section 49B(3)(b) RTA. Where insurance money is irrecoverable because of the tenant's conduct, the property is treated as if it is not insured against the damage. See section 49B(3A)(a) RTA.

20. 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. See section 49B(1) RTA.

21. 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. See *Guo v Korck* [2019] NZHC 1541.

22. The following damage was caused during the tenancy.

Invoice from Darryl Tregidga Builders Ltd

23. This invoice was the largest claim, amounting to $3,998.45. It covered a wide range of items, including the replacement of internal doors, locks, door hardware, toilet fittings, the garden shed door, and weatherboards. While I accepted the bulk of this claim, I found that two items could not properly be awarded.

    a. First, the cost of pruning a tree ($34) was clearly a landlord's responsibility.

    b. Second, the claimed $136 for repairing a hole in the deck could not be justified. The deck was plainly old, weathered, and unmaintained, and I could not be satisfied that the damage was tenant-caused rather than fair wear and tear.

24. Ms. de Beer accepted that her client could not be placed in a better position than before the tenancy. I indicated that some depreciation would need to be applied.

25. After reviewing the invoice, I noted that the material cost was $911.84, with the balance being labour. I would not disturb the labour cost, as the time claimed was required to complete the repairs. The material cost is reduced by 35%, taking into account the age and condition of the house.

26. For this invoice, the total compensation awarded is $3,435.94 GST inclusive.

Other repairs

27. Other repair items included the replacement of the lock on a screen door for $87, front door glass pane, dining room window repair for $370.89, and the reinstatement of laundry taps for $182.34 said to have been removed by the tenants.

28. The landlord also sought to recover costs of repainting walls, repairing window sills, and addressing a hole in the wall for $1,200. However, Ms de Beer acknowledged that some allowance for depreciation was appropriate and

sought instead $800. Given the condition of the walls as shown in the exit photographs, I agreed this reduced figure was fair and allowed the claim in that amount.

29. I am satisfied that the damage is more than fair wear and tear, and the tenants have not disproved liability for the damage.

30. The amounts ordered are proved.

31. I have taken into account betterment and depreciation. The landlord should be returned to the position they would have been in had the tenants not breached their obligations, and should not be better or worse off. In calculating depreciation, I have taken into account the age and condition of the items at the start of the tenancy and their likely useful lifespan.

Filing fee

32. Because North Island Community Services Limited T/A Propertyscouts Whangarei As Agent For A Lindsay & M Tutty has wholly succeeded with the claims I must reimburse the filing fee.

M Kan
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.