[2025] NZTT 5266463

TENANCY TRIBUNAL AT [Event location suppressed]

APPLICANT: Muqtadir Ali Qadri Qadri, Amtul Jabbar Lubaida Fatima

Tenant

RESPONDENT: [The respondent/s]

Landlord

TENANCY ADDRESS: [Tenancy address suppressed]

ORDER

1. An application for suppression has been made in this case, and the Tribunal orders suppression of the Landlords name and identifying details.
2. The Landlord must pay the Tenant $975.00 immediately.

Description	**Landlord**	**Tenant**
Compensation		$675.00
Compensation		$300.00
Total award		**$975.00**
Total payable by Landlord to Tenant		**$975.00**

Reasons:

1. Both parties attended the hearing. The Tenant was represented by Mohi Syed and the Landlord was represented by [The landlord's representative].
2. The Tenant has applied for a bond refund, breach of Healthy Home Standards, compensation, unlawful residential dwelling, exemplary damages and reimbursement of the filing fee. At the hearing, the Tenant withdrew their claim for bond refund.
3. The tenancy commenced on 28 May 2024 and ended on 21 May 2025. The property was a basement unit consisting of one living room, one bedroom, and

one bathroom. It featured an open-plan kitchen and had its own separate access. The unit did not have access to the upper level.

4. As the Applicant, the Tenant bears the burden of proof. This means the Tenant must satisfy the Tribunal, on the balance of probabilities, that their claims are more likely than not to be true and they must provide evidence to support their claims.

Claim for unlawful residential property

5. The Tenants claim that the property was an unlawful residential premise and seek compensation for the full rent paid during the tenancy, totalling $19,110.00. They allege that the unit lacked essential features indicative of a lawful premise, including shared council rubbish bins and letterboxes with the upstairs occupants, no designated common or private areas, no separate electricity sub-meter, and no distinct postal or physical address from the upper level. In April 2025, the Tenant contacted Auckland City Council to enquire about the property's compliance status and was informed that there was no record of any additional consented work having been carried out. As the Tenant was not the owner, he was not provided with specific details of any historical consents. Council also confirmed that only one address was registered for [tenancy address suppressed], and consequently only one rubbish bin was allocated. They further advised that the property had a single water and electricity connection. The Tenant states that these conditions resulted in an unhygienic living environment, limited mail privacy, and unfair utility charges—specifically, being billed for 70% of the total electricity usage. He also reports persistent issues with excessive mould and inadequate ventilation due to the absence of an exhaust fan in the bathroom.

6. The Tenant did not provide any independent evidence from the Council to confirm his conversation.

7. The Landlord submitted this was a lawful residential property and provided a 2025 Auckland Council Notice of land valuation which described the property as “House and flat”. They submitted the Landlord had been renting out this property for many years and it was not until after the tenancy ended that the Tenant has raised issues. The Landlord also submitted there was no legal requirement to provide separate rubbish bins and there is no evidence of the “unpleasant issues” the Tenant suffered as a result of this. The Landlord provided photographs of the unlocked mailbox and four rubbish bins.

8. Section 78A(2) RTA provides that an unlawful residential premises is a place of residence that cannot be lawfully occupied for residential purposes and where the landlords failure to comply with their obligations has caused the occupation of that person to be an unlawful occupation.

9. Section 36 RTA provides that a Landlord shall take all reasonable steps to ensure that there is no legal impediment to the occupation of the premises at the start of the tenancy.

10. Section 45(1) RTA provides the Landlord shall comply with all requirements in respect of buildings, health and safety. This requires consideration of the Landlords compliance with section 40 of the Building Act 2004.

11. Section 40 of the Building Act 2004 provides that a household unit, being a building under residential occupation, must have building consent and have a code compliance certificate. Section 114 and 115 of the Building Act looks at the use of consented buildings and when change of use of consented buildings. The owner must give notice of change of a building and the owner must not change the use unless there is consent and compliance with the building code. The Building Regulations 2005 must be considered to determine exactly if there has been a change of use. The division of this home into two household units would make it a change in use within the meaning of s115 and the owner was required to obtain written notice from the Council that the building complied with the building code. There was no evidence provided of this notice or council approval for the change of premises.

12. In considering the evidence, I find that the premises constitute a household unit being used for residential purposes, as defined under the Building Act 2004. A property of this nature would be considered unlawful if it does not have the required building consent and code compliance certificate. However, the Tenant has not provided sufficient evidence to demonstrate that such consents and certification were not obtained. Accordingly, the Tribunal is unable to make a definitive finding on the lawfulness of the premises. While the Landlord submitted an Auckland Council notice of valuation describing the property as a “house and flat” this document alone is not sufficient to establish that the premises are lawfully consented. However, it is not the Landlords responsibility to prove the lawfulness of the premises in this instance as they are not the Applicant. It is the Tenants responsibility to provide this by requesting a LIM or building report which can be provided upon request.

13. For these reasons, the claim is dismissed.

Compensation for Tenants damaged items

14. The Tenant claimed $25,000 for damage to personal items following a flood which occurred in April 2025 resulting in storm water overflow into the property. Damaged items included a $2,000 bed base, baby clothes, bedsheets, and carpet affected by mould.

15. The Tenant alleged no insurance information was provided by the Landlord to confirm their cover for this, they were unaware the property was flood-prone which the Landlord should have disclosed to them, they had a Council letter

confirming the property was uninhabitable and the Landlord eventually waived rent for a week because the damage was substantial. The Tenant provided photographs of their bed which was damaged by mould.

16. The Landlord submitted that the flood resulted from Cyclone Tam and was beyond their control. The Landlord provided towels, a carpet dryer, and waived a week's rent to assist the Tenant. They also stated that the Tenant should have had contents insurance to cover their losses.

17. In considering the evidence, it was accepted by both parties that the flooding was caused by the emergency weather event. As a result of this, the Landlord is not liable for the damage to the Tenants' items. The Tenant did not provide evidence to prove the original cost or condition of the damaged items when they purchased it, so it cannot be determined if the damage was caused during the tenancy. The Landlord responded reasonably under the circumstances and is not liable for the damage.

18. This claim is dismissed.

Claim for failure to provide a written Tenancy Agreement and lodge the bond

19. The Tenant alleged that no written Tenancy Agreement or signed bond form was provided at the start of the tenancy. A written agreement was only signed and backdated in January 2025 to assist with the Tenants immigration application.

20. The Landlord claimed the Tenant had refused to sign a Tenancy agreement despite multiple requests since the start of the tenancy. The Landlord, self-managing the property for over 20 years, admitted the bond was not lodged due to oversight.

21. Section 13 RTA requires a written and signed Tenancy Agreement to be provided before the tenancy begins. Section 19 RTA requires bond lodgement within 23 working days of receipt.

22. In considering the evidence, the Landlord failed to meet obligations under both sections. Given their extensive experience in renting, this oversight is not excused. I find the appropriate amount to Order in these circumstances is $675.00.

23. The amounts ordered are proved.

Claim for failure to comply with Healthy Home Standards and provide a Healthy Home Standards certificate

24. The Tenant claimed the Landlord failed to comply with the Healthy Homes standards within the 120-day requirement and failed to provide a Healthy Homes certificate. The breaches included a lack of kitchen ducting, damp and unhealthy environment, mould damage to their bed and rubbish and furniture outside attracting insects. They provided photographs of the bed which was

soiled and damaged by mould. There was no evidence of a Healthy Homes Standards inspection report from the Tenant during the tenancy.

25. The Landlord stated no request was made from the Tenant for the Healthy Homes report and compliance was achieved by 21 May 2025. An exhaust fan was installed later, as required by 1 July 2025. Auckland Council did not note any mould during its 24 April 2025 inspection.
26. Under Section 45 RTA, the Landlord must provide Healthy Homes documents within 21 days of a tenant's request. Under section
27. In considering the evidence, I find there was no evidence from the Tenant of making such a request to the Landlord. While the Landlord was mistaken regarding the compliance deadline for installing a bathroom fan (required within 120 days of the commencement of the tenancy), no evidence was provided of any other breaches of the healthy home standards. The only mould shown was on a bed, likely due to flooding. A technical breach is noted but not further penalised.

Claim for failure to provide an insurance certificate

28. The Tenant claimed the Landlord failed to provide the insurance certificate.
29. The Landlord contended the Tenant never requested this and there was no evidence that they had asked.
30. Section 13A RTA requires Landlords to disclose insurance details and provide a copy if requested by the Tenant.
31. In considering the evidence, I find the tenant has not provided any evidence that they had asked for this.
32. The claim is dismissed.

Claim for unlawful entry by the Landlord

33. The Tenant alleges that the Landlord entered the premises multiple times without providing the required notice following the flooding incident in April 2025. The Tenant observed that personal belongings had been moved and noticed a hole in the ceiling, which raised concerns that they might be held liable for the damage. Additionally, the Tenant claims that on 19 May 2025, the Landlord's husband entered the property without prior notice to access the electrical switchboard.
34. In response, the Landlord stated that they had obtained the Tenant's consent to access the property during the Tenant's stay in emergency housing. The Landlord's daughter, [the landlord's daughter], gave evidence that she contacted the Tenant during the flooding and received permission to enter, with the Tenant agreeing to leave the key outside for this purpose.

35. Regarding the 19 May 2025 incident, the Landlord submitted that access was required due to a power outage in the upper level of the house. It was asserted that access to the switchboard had been agreed upon at the start of the tenancy. The Landlord also began ceiling repairs during this period and confirmed there was no intention to attribute any resulting damage to the Tenant.
36. In considering the evidence, I find that the Landlord's entry after the flooding was lawful, as consent had been obtained through [the landlord's daughter] to facilitate remediation and allow contractors access. I find [the landlord's daughter]'s evidence to be honest and credible. The movement of the Tenant's personal items appears to have been incidental to the carpet cleaning and repair work. However, in relation to the entry on 19 May 2025, I find that the Landlord's husband entered the property without proper written notice. While the situation may have constituted an emergency for the Landlord due to the power outage upstairs, it did not constitute an emergency affecting the Tenant's welfare. The absence of a written tenancy agreement exacerbates these types of disputes, as pre-agreed terms regarding access were not clearly recorded. This entry, therefore, amounted to an unlawful intrusion and a breach of the Tenant's quiet enjoyment of the premises. I consider $300.00 to be an appropriate amount of compensation for the unlawful entry.
37. The amounts ordered are proved.

Claim for electricity

38. The Tenant claimed $2,263.82 for electricity, arguing errors in calculation, including duplicate charges and fixed fees. They provided a table of payments and charges, screenshots of what they were charged and the calculations made by the Landlord.
39. The Landlord clarified any overcharging (e.g., duplicate billing) had been corrected, and acknowledged fixed charges should not have been applied and agreed to refund these.
40. In considering the evidence, I find the Tenants discrepancies in the amounts charged and paid were explained by the Landlord.
41. The amounts ordered are proved.

Claim for unlawful rent increase

42. The Tenant claimed the rent was unlawfully increased by $10.00 per week after moving in, from $380 (including internet) to $390 (excluding internet).
43. The Landlord responded that the advertised rent included water only, and internet was never included. They also referred to the advertisement for the property before the tenancy began which shows that internet was never included.

44. In considering the evidence, I find there was insufficient evidence provided by the Tenant to substantiate this claim of what the Landlord has stated.

45. The claim is dismissed.

Claim for exemplary damages

46. The Tenant sought exemplary damages for stress and health issues caused by the mould and breaches of the Healthy Homes standards. The Tenant submitted during the hearing that there was no intention to breach these standards by the Landlord but there was a breach.

47. The Landlord submitted there was no intention to breach; Healthy Home standards compliance was achieved by July 2025 and the Landlord, being elderly, took steps toward compliance. There was never any ill-intention on her part in being non-compliant. There was no medical evidence provided by the Tenant to support claims of health impacts.

48. In considering the evidence, there was insufficient evidence provided by the Tenant to prove that at the time of the tenancy, the home was in breach of healthy home standards.

49. Regarding the stress caused towards the Tenants by the tenancy, this is not an unlawful act for which exemplary damages can be claimed.

50. For these reasons, the claim for exemplary damages is dismissed.

51. As the tenant has not been substantially successful, the Tenant shall pay their own filing fee. As the Landlord has been substantially successful, name suppression is granted to the Landlord.

A Aiolupotea
05 October 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.