[2025] NZTT 5312580

TENANCY TRIBUNAL AT [Event location suppressed]

APPLICANT: [The applicant]

Tenant

RESPONDENT: Crockers Property Management Limited As Agent For Li Na

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 Tenant's name and identifying details.
2. Crockers Property Management Limited As Agent For Li Na must pay [The tenant] $910.00 immediately.

Description	Landlord	Tenant
Compensation: Rent reduction by 50% for the loss of amenity suffered by the tenant during the tenancy		$910.00
Total award		**$910.00**
Total payable by Landlord to Tenant		**$910.00**

Reasons:

1. Both parties attended the hearing.
2. The tenant applied for compensation, general damages and exemplary damages.

Background

3. The tenancy commenced on 7 July 2025 and ended on 22 July 2025.
4. The tenant confirmed he rented the premise as it was in the school zone he wanted for one of his children. He looked at a number of properties before choosing this one, and made a decision to rent it after viewing it for around 15 minutes. He says he did not pick up the large number of repair and

maintenance and healthy homes compliance issues until after moving into the premise.

5. The tenant stated he raised these repair, maintenance and healthy homes compliance issues in emails dated 11, 14 and 18 July 2025, and he moved out on 22 July 2025 after these issues were not investigated and remediated in what the tenant considered to be a reasonable timeframe in all the circumstances.
6. The landlord stated it took steps to investigate and remediate the issues raised by the tenant, in a reasonable timeframe in all the circumstances. Additionally, it states that the owners decided to release the tenant from the 12-month fixed term tenancy, did not seek to claim and rent for the period after the remedial works were completed (11 August 2025) until the new tenancy commenced on 27 September 2025. Nor did the owners seek break lease fee costs from the tenant.
7. The tenant is a licenced building practitioner.

RELEVANT LEGAL CONSIDERATIONS

8. The relevant law that applies is found in the Residential Tenancies Act 1986 ("RTA").
9. With any claim before the Tenancy Tribunal, the Tribunal applies the usual civil law standards and expectations.
10. That includes a requirement that the party bringing the claim (the applicant), establish their claims "on the balance of probabilities". The balance of probabilities means more likely than unlikely, or in mathematical terms, has a fractionally more than 50% likelihood. The Tribunal does not need to be certain or very sure about any claim, only that what is claimed is likely.
11. 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.
12. 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.

13. In summary, I do not need to be completely certain, but I need to be more certain than uncertain. In deciding any claim, I must consider all the evidence presented (including oral evidence during the hearing). I must weigh this evidence to decide what is more likely. If any claim is not established to the balance of probability, it must be dismissed.

14. The Tribunal has reviewed and considered all evidence, though not all is specifically referenced in this decision.

TENANT'S CLAIMS

Has the landlord breached its section 45(1)(b) and (bb) obligations to the tenant?

15. The tenant claims that the landlord has breached its obligations under section 45(1)(b) and (bb) of the Residential Tenancies Act 1986 ("RTA").

16. Under section 45(1)(b) of the RTA, the landlord has an obligation to investigate and repair a defect brought to its attention, within a timeframe that is reasonable in the circumstances. In *Collins v Professionals Hutt City Ltd*, the Wellington District Court held "what that time is depends not only on the gravity of the problem but also on the objective evidence of the attempts made by the landlord to investigate, and put right, whatever the problem might be".[1]

17. There is an obligation to repair, even if the tenant has notice of the state of repair of the premises when entering a tenancy agreement.

18. A tenant may give a landlord 14 days' notice to remedy a breach of the RTA and/or any relevant enactment in relation to buildings, health and safety, but should do so in good faith and to remedy a real and significant breach[2]. However, notice from the tenant is not required if the landlord knew of the need to repair [3] or the need for repair was apparent from observation[4].

19. There is also failure to repair if the repair is ineffective, non-complaint or unsafe[5].

20. Under section 45(1)(bb) of the RTA, a landlord must also comply with all the healthy homes standards.

21. Breaching either of these s45(1) obligations is an unlawful act for which exemplary damages may be awarded up to a maximum of $7,200.00. See section 45(1A) and Schedule 1A Residential Tenancies Act 1986.

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[1] *Collins v Professionals Hutt City Ltd* DC Wellington CIV-2009-085-1431, 24 February 2019 at [15].
[2] *Brough v Housing NZ Ltd* NZTT1848/1, 27 May 202 at [13].
[3] *Berghan v Ponsonby Property Management Ltd trading as L J Hooker* [2015] NZTT Manukau 2845 at [9]- [11].
[4] *Barfoot & Thompson Ltd v Casey* DC Auckland CIV-2005-004-1762, 7 November 2007 at [4].
[5] *Staife v Aegis Trust* [2016] NZTT Auckland 3314 at [31].

22. General damages may also be awarded in the form or rent reductions, water rates reductions or compensation for the stress, inconvenience and loss of amenity suffered by the tenants.

Failure to maintain

23. The tenant gave evidence the landlord failed to investigate and repair defects with the property brought to its attention, within a timeframe that is reasonable in all the circumstances.

A. Decks

24. The tenant confirmed, he raised the issue of the structural integrity of the two decks with the property manager by email on Monday 14 July 2025.

25. He produced photographic evidence that shows:

    a. Both decks were supported by one 50/50 mm steel post that was rusted away and left the decks in an unsafe condition;

    b. Many battens were missing or broken;

    c. The battens were spaced to far apart from one another to meet the building code requirements and were over 120mm in places;

    d. The handrail was loose in several places;

    e. There were a significant number of loose and/or rotten deck boards on a deck that was 6 metres from the ground, which posed an unacceptable safety risk; and

    f. The balustrade was under the required height (850mm maximum height).

26. The property manager confirmed she called two builders on Wednesday 16 July 2025 and that the first available builder went out to investigate all the deck related issues the next day and this builder sent through a quote for the remedial work to be carried out by his company.

27. The day after the builder visited, the tenant made the decision not to continue on with the tenancy as he had not had a repair and maintenance schedule given to him promptly to address all the repair and maintenance issues he had raised.

28. He also made a further decision, on 18 July 2025, to request that the landlord not have any contractors come to undertake any further investigation or remedial work until after he had moved out as he wanted to have that time to pack, move and organise himself in a short timeframe.

29. The landlord says it respected that request as being a reasonable one and so no further investigatory or remedial work was carried out until after the tenant moved out.

30. I am satisfied that the landlord took steps to have the decking related issues investigated and remediated in a reasonable timeframe in all the circumstances. The landlord has proven it had all the decking related issues address as soon as the tenant moved out and the two decks replaced by 11 August 2025.

31. Even if the tenant has issued a 14-day notice to the landlord, he did not wait 14 days for the landlord to come up with an investigation/ remediation plan or any compensation offer. When the landlord did not offer immediately offer him a rent reduction for the two weeks he had rented the premise, and did not provide a detailed repair schedule within 7 days of the issues being raised, he decided not to continue with the tenancy.

32. The owners agreed to release him from the tenancy and not to enforce their right to require him to pay break lease fees and/or rent until a new tenant moved in.

33. I find that the tenant has not proven, on the balance of probabilities, that the landlord failed to investigate and repair the deck/balustrade/batten issues in a reasonable timeframe in all the circumstances because the tenant raised the issue on 14 July 2025, a contractor came to investigate the issue on 16 July 2025 and provided a quote for the repairs to be undertaken, the tenant requested the landlord not have the work undertaken until he had moved out on 22 July 2025, and the remedial work was completed by 11 August 2025. Therefore, this claim is dismissed.

Suspected mould and water ingress

34. The tenant confirmed, he raised the issue of water coming in the ranch slider, high moisture readings in the downstairs bedroom and old mould evident on a curtain in a downstairs bedroom with the property manager by email on Monday 14 July 2025. Further, he stated that there were high moisture readings from the level of the garage that went to a bathroom and the two childrens bedrooms and that one bedroom had a very high moisture reading where some of the wall is underground. He also stated the flashing under the ranch slider needed replacing and that he had assessed that the dampness was coming through the concrete block and into the gib.

35. The tenant also confirmed the carpet had been replaced downstairs and he considered that evidence of prior water ingress issues, in conjunction with the old curtain with some signs of mildew on it.

36. The landlord confirmed the curtains were 4 years od and needed replacing, that the prior tenants had not always aired the downstairs rooms out and some mould had formed on the back on one curtain as a result. Further, the landlord confirmed that it had told the tenant it intended on installing new curtains in the downstairs rooms as they were due for replacement. This did not happen before the tenancy ended two weeks after it commenced.

37. The landlord also confirmed that it had contacted a building specialist on 17 July 2025 to ask it to come and investigate the tenant's concerns. The tenant then notified the landlord the same day that he intended to move out and the next day asked the landlord not to have any investigation or remediation work completed until after his tenancy had ended on 22 July 2025.

38. I am satisfied that the landlord took steps to have the mould/water ingress issues investigated and remediated in a reasonable timeframe in all the circumstances. The landlord has proven it had these issues addressed as soon as the tenant moved out and the specialist building contractor found no mould or water ingress issues. The tenant says this is because these issues are only evident immediately after heavy rain and they were investigated after a full week of sunshine.

39. The landlord says the prior tenant lived in the property for three years and never complained of any mould or water ingress issues.

40. Even if the tenant has issued a 14-day notice to the landlord, he did not wait 14 days for the landlord to come up with an investigation/ remediation plan or any compensation offer. When the landlord did not offer immediately offer him a rent reduction for the two weeks he had rented the premise, and did not provide a detailed repair schedule within 7 days of the issues being raised, he decided not to continue with the tenancy and not to allow contractors to come and investigate or remediate until after 22 July 2025.

41. I find that the tenant has not proven, on the balance of probabilities, that the landlord failed to investigate and repair the alleged mould and water ingress issues in a reasonable timeframe in all the circumstances because the tenant raised the issue on 14 July 2025, a contractor was booked on 17 July 2025 to come to investigate the issue as soon as practicable and the tenant requested, on 18 July 2025, not have the work undertaken until he had moved out on 22 July 2025. Therefore, this claim is dismissed.

Electrical hazards and switchboard cover

42. The tenant proved he raised the alleged electrical hazard issues on 11 July 2025. He says there were exposed wires in at least six different areas of the premise and he treated them all as live until proven otherwise. He requested an electrician at these wires and indicated that there were three areas where it looked like cut cords or phone wires but the ones hanging down from garage door looked live and he did not know if he could open the garage door. Additionally, he stated there were cupboards with exposed wires that needed investigating.

43. The landlord confirmed it sent a work order to an electrician on 15 July 2025. Before the electrician could attend the premise, the tenant confirmed on 18 July 2025 that no contractors were to attend the premise until after he had left the

tenancy on 22 July 2025. The tenant stated he was moving between the Friday and Monday and he didn't want people there when he was not there.

44. The landlord had an electrician come to investigate and remediate the alleged electrical issues after the tenancy ended and it produced an invoice for the work where the electrician notes that there were no live exposed wires and that the wires for the television and telephone had been covered up as they would be required for new tenants. The invoice doesn't refer to the other wires in the garage or cupboards but the landlord confirmed all wired were investigated, none were live and there were no electrical hazards.

45. The tenant also raised the issue of the switchboard not having a cover on it and that it was placed at a height where children could touch the exposed wires and die. He stated that the lack of cover and height of the switch board breached the building code. This issue was raised by the tenant by email on 18 July 2025. This was the same date the tenant made the decision to request that the landlord not have any contractors come to undertake any further investigation or remedial work until after he had moved out as he wanted to have that time to pack, move and organise himself in a short timeframe.

46. I find that the tenant has not proven, on the balance of probabilities, that the landlord failed to investigate and repair the alleged electrical issues in a reasonable timeframe in all the circumstances because the tenant raised the issues on 14 and 18 July 2025 and thereafter instructed the landlord not to have any investigative or remedial work undertaken until he had moved out on 22 July 2025. Therefore, this claim is dismissed.

Failure to meet healthy homes standards

47. The tenant claims that the landlord has breached her obligations under section 45(1)(bb) of the RTA which requires compliance with the Residential Tenancies (Healthy Homes Standards) 2019 (HHS).

48. Compliance dates for the HHS vary depending on the tenancy:

    a. For private rentals

        i. If the tenancy commenced between 1 July 2021 and before 28 August 2022, the rental must comply within 90 days of the commencement of any new or renewed tenancy; or

        ii. If the tenancy commenced between 28 August 2022 but before 3 March 2025, the rental must comply within 120 days of the commencement of any new or renewed tenancy.

        iii. All private rentals must comply by 1 July 2025.

    b. All boarding houses must comply by 1 July 2021.

c. All houses rented by Kāinga Ora and registered Community Housing Providers must comply by 1 July 2024.

49. The tenancy commenced on 7 July 2025. Therefore, the landlord had to ensure the premise complied with all of the healthy homes' standards from the beginning of the tenancy.

A. Heating

50. The tenant claims that the landlord has failed to comply with the heating standard.

51. The heating standard requires landlords to provide one or more 'qualifying heaters', with a capacity to heat the room to a required level. The heating standard defines what a qualifying heater would be and confirms that certain types of heaters are unacceptable heaters for the purpose of the HHS.

52. The heating standard requires that heaters in the particular tenancy have a minimum heating capacity. An on-line calculator has been produced in order to determine what level of heating is required for any particular premises, and that can be found at https://www.tenancy.govt.nz/heating-tool/

53. There must be one or more fixed heaters that can directly heat the main living room.

54. The main living room is the largest room that is used for general, everyday living – for example a lounge, family room or dining room.

55. Heater(s) must be fixed (not portable) and must be at least 1.5 kW in heating capacity and meet the minimum heating capacity needed for the main living room. There are several options to calculate the heating capacity required for the main living room.

56. The HHS does provide exemptions in specific circumstances.

57. The tenant says the heated towel rails in both bathrooms were loose and there were no heaters in downstairs bedrooms. None of these things are requirements for compliance under the heating standard. Additionally, the parties have confirmed that a compliant heat pump was located in the main living area. The claim is dismissed accordingly.

B. Ventilation

58. [The tenant] claims that the landlord has failed to comply with the ventialtion standard.

59. The ventilation standard sets out minimum expectations around windows and doors, and in particular the area of doors and windows that are openable. The standard also requires that each kitchen and bathroom have extractor fans installed with a minimum defined extraction capacity.

60. The HHS does provide exemptions in specific circumstances.

61. The tenant says the house was damp and smelt musty downstairs and there was evidence on mould on one curtain and therefore the house was not adequately ventilated.

62. The landlord has a report that proves the premise meets the ventilation standard and the tenant has failed to prove his mould and moisture ingress

claim under the failure to maintain claim above. The tenant has failed to prove this claim on the balance of probabilities and the claim is dismissed accordingly.

C. Moisture Ingress and Drainage

63. The tenant claims that the landlord has failed to comply with the moisture ingress and drainage standard.

64. The moisture ingress and drainage standard requires that buildings comprising residential tenancies must have efficient systems to drain storm water, surface water and ground water, and that includes gutters, downpipes and drains. The Standard requires a ground moisture barrier when there is an enclosed subfloor space if it is reasonably practical to do so.

65. The HHS does provide exemptions in specific circumstances.

66. The tenant relied on the same case facts as outlined in the mould/ water ingress claim in the failure to maintain section of this Order.

67. The landlord has a report that proves the premise meets the moisture ingress and drainage standard and the tenant has failed to prove his mould and moisture ingress claim under the failure to maintain claim above. The tenant has failed to prove this claim on the balance of probabilities and the claim is dismissed accordingly.

Reimbursement for moving related costs

68. The tenant seeks $15,345.00 of moving costs be reimbursed to him to compensate him for costs he says he would not have incurred but for the landlord failing to meet its repair and maintenance obligations to him and its failure to conduct a comprehensive exit inspection on the premise before reletting it to him. He says the premise was dirty and dusty, had cob webs everywhere, the lawns not mown and there were numerous repair and maintenance issues that could have and should have been undertaken before he moved it. He says he was inconvenience by the contactors that did have to come into the premise in his short stay and that he could tell that the other repair and maintenance issue, especially the deck/balustrade and batten issues, would take a significant amount of time to repair properly and would cause significant inconvenience and stress to him and his children. Additionally, he was suffering a significant loss of the amenities he was paying full market rent to enjoy.

69. The tenant has not proven that it was the landlord's failure to carry out the investigative and remediation processes, in relation to the concerns raised by the tenant, in a reasonable timeframe in all the circumstances. He did not have to move out. He could have issued a 14-day notice, not issued an instruction

not to send contractors from 18 July 2025 and given the landlord a reasonable timeframe to have the issues investigated and remediated. He did not.

70. The decision to move out was the tenant's.

71. The landlord waived all rights to have the tenant pay its break lease costs, cost that it incurred after having just paid those same advertising and letting costs less than a month earlier. The landlord also waived its rights to have the tenant pay it costs for lost rent up to the date the new tenants moved in. Additionally, it allowed him to move out when he wanted to do so. It charged him no more rent than the days he had possession of the premise.

72. I am satisfied that the landlord is not responsible for any of the costs the tenant is claiming reimbursement for, movers, temporary rental accommodation, cancelation fees for internet and power, fuel for moving and the tenant's time and dismiss these claims accordingly.

73. I do recognise the tenant suffered significant loss of amenity, stress and inconvenience during the two weeks of his tenancy and award him compensation of $910.00, being 50% of the rent he paid to the landlord over this period.

Reimbursement of filing fee

74. Section 102(4) of the RTA confirms that applicants that are wholly or substantially successful in proving their claims will have their filing fee reimbursed.

75. Because the tenant has not wholly or substantially succeeded with his claims his application for reimbursement of the filing fee is dismissed.

Name Suppression

76. The tenant applies for non-publication of his name and identifying details.

77. The Tribunal must, on the application of a party that has wholly or substantially succeeded in proceedings, order that the party's name or identifying particulars not be published, unless the Tribunal considers that publication is in the public interest or is justified because of the party's conduct or any other circumstances of the case.

78. The tenant has not wholly or substantially succeeded in his proceedings. However, I do not consider publication is in the public interest or justified because of the tenant's conduct or any other circumstances of the case.

79. Non-publication is ordered.

M Pollak
20 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.