[2025] NZTT 5283308

TENANCY TRIBUNAL AT [Event location suppressed]

APPLICANT: [The applicant]

Landlord

RESPONDENTS: Lori Gabrielle Hodgson, Daniel Learmonth

Tenants

TENANCY ADDRESS: [Tenancy address suppressed]

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. Lori Gabrielle Hodgson and Daniel Learmonth must pay [The landlord] $5,037.16 immediately, calculated as shown in table below.

Description	**Landlord**	**Tenant**
Rent arrears to 12 July 2025	$6,128.86	
Cleaning (mould in master bedroom ensuite ceiling)	$200.00	
Repairs: Plaster, sand and paint wall holes	$500.00	
Plumbing	$211.21	
Master bedroom curtains	$130.00	
Full moon light	$22.98	
Half moon	$18.61	
Repairs: Broken window	$350.00	
Lock/key replacement	$348.50	
Filing fee reimbursement	$27.00	
Compensation: Bond already paid to the landlord in error by Bond Centre		$2,380.00
Total award	**$7,937.16**	**$2,380.00**
Net award	$5,557.16	
Bond	$520.00	
Total payable by Tenant to Landlord	**$5,037.16**	

3. The Bond Centre is to pay the bond of $520.00 ([Bond number suppressed]) to [The landlord] immediately.

Reasons:

1. The landlord attended the hearing. The tenants did not.
2. I am satisfied that the tenant had received proper notice of the hearing time, date and place and chose not to attend. The landlord confirmed the tenants had attended mediation and knew about the hearing today. They had asked for the hearing to be held face to face instead of remotely. We waited for them to attend the hearing for 15 minutes and then commenced the hearing without them. They have not contacted the register to seek an adjournment or explain why they have not attended today's hearing.
3. The landlord has applied for rent arrears, compensation, refund of the remainder of the bond, and reimbursement of the filing fee following the end of the tenancy.

RELEVANT LEGAL CONSIDERATIONS

4. The relevant law that applies is found in the Residential Tenancies Act 1986 ("RTA").
5. With any claim before the Tenancy Tribunal, the Tribunal applies the usual civil law standards and expectations.
6. 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.
7. 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.
8. 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.

9. 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.

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

TENANTS CLAIMS

How much is owed for rent?

11. The tenancy ended on 12 July 2025. The landlord provided rent records which prove the amount owing at the end of the tenancy.

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

12. At the end of the tenancy the tenant 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 tenant is required to replace worn out smoke alarm batteries during the tenancy. See section 40(1)(ca) Residential Tenancies Act 1986. The tenant must also replace standard light bulbs.
13. The tenants did not leave the premises reasonably clean and tidy, and did not remove all their rubbish. The landlord disposed of the rubbish himself and has chosen not to charge the tenants for doing so.
14. The tenant did not return all the keys, and the landlord says the male tenant threatened the landlord and his wife by saying “I will find out where you live as I have nothing to do and I will hurt you”. Consequently, the landlord had all the locks in the premise changed and issued a trespass notice to the male tenant.
15. The smoke alarms were all missing at the end of the tenancy, as were the master bedroom curtains. The landlord has absorbed the cost of replacing the smoke alarms and batteries but has sought compensation for the purchase of curtains in the master bedroom.
16. The amounts ordered are proved.

Are the tenants responsible for the damage to the premises?

17. 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 tenant 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.

18. 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 tenant proves otherwise.

19. Where the damage is caused carelessly, and is covered by the landlord's insurance, the tenant's 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.

20. 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.

21. 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.

22. 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.

23. The following damage was caused during the tenancy:

    a. The shower tray was cracked and water had gotten into the flooring underneath causing the shower tray to have to be replaced. This damage was covered by the landlord's insurance as gradual damage from water leaking through two hairline cracks. The landlord is seeking the $500.00 insurance excess he paid. He has not proven on the balance of probabilities this damage was caused by the tenants deliberate or careless acts or omissions. I am satisfied this is a gradual water damage claim for which the tenants are not responsible, and I dismiss this claim accordingly;

    b. Holes in the walls in from the tenants kicking or punching these walls allegedly during domestic disputes:

        i. Master bedroom x1

        ii. Living room x2

        iii. Corridor x1

        iv. Stairs x2

    I am satisfied that the tenants are responsible for this damage. The landlord issued the tenants with a 14 day notice to repair these holes made

by them and gave them the opportunity to have this damage repaired at their own cost by their own contractor. They stated they would have this damage repaired but had not done so by the time they moved out. I find that they are responsible for this deliberate or careless damage and award the landlord the $500.00 it cost to carry out these repairs;

c. The U trap under the kitchen sink was damaged, leaking and was taped up by the tenants. This damage occurred between the March 2025 inspection and the end of the tenancy and was never reported to the landlord. The landlord's contractor says this damage was caused by the tenants' careless acts or omissions and was not fair wear and tear or accidental damage. I award the landlord the $211.21 it cost to repair the U bend;

d. The full moon light glass was found tossed in the yard and broken and the half moon light glass was missing at the end of the tenancy. The evidence suggests the damage was caused by the tenants' careless acts or omissions and they are responsible for the replacement costs sought. The landlord has claimed $22.98 for the full moon light replacement and $18.61 for the half-moon light replacement. I award compensation to him for both lights;

e. Broken stain glass window on the left-hand side as you enter the house. The landlord has produced communications that prove the tenants accepted liability for this damage and that they had undertaken to organise glazier to match the exact pattern. At the end of the tenancy this had still not been done. I award the landlord the $350.00 it cost him to get this window glass replaced.

24. The damage is more than fair wear and tear, and the tenant has not disproved liability for the damage.

25. The amounts ordered are proved.

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

OTHER CLAIMS

Reimbursement of filing fee

27. 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.

28. Because [The applicant] has substantially succeeded with its claims I must reimburse the filing fee.

Name suppression

29. The landlord applies for non-publication of its name and identifying details.

30. 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.

31. The landlord has substantially succeeded in its proceedings. I do not consider publication is in the public interest or justified because of the landlord's conduct or any other circumstances of the case.

32. Non-publication is ordered.

Bond

33. The landlord confirmed that some of the bond had been mistakenly paid to him by the Bond Centre, when the bond from the last tenants was recently being processed. The Bond Centre inadvertently paid the bond amount to it twice. Consequently, only $520.00 of the tenants $2,900.00 was left at the Bond Centre at the end of this tenancy.

34. I have refunded the remainder of the bond to the landlord and record why the full amount was not in the Bond Centre at the end of this tenancy.

M Pollak
23 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.