[2025] NZTT 5300852, 5074828

5323380

TENANCY TRIBUNAL AT [Event location suppressed]

APPLICANT: [The applicant/s]

Tenant

RESPONDENT: [The respondent/s]

Landlord

TENANCY ADDRESS: [Tenancy address suppressed]

AMENDED ORDER[1]

1. An application for suppression has been made in this case, and the Tribunal orders suppression of the names and identifying details of both parties.
2. Based on the calculations in the table below, the Bond Centre is to pay the bond [5538851-007] as follows:

   $905.50 to [the tenant]

   $804.50 to [the landlord].

Description	Landlord	Tenant
Rent arrears to 20 August 2025	$10,432.00	
Exemplary damages: incomplete rental agreement		$500.00
Exemplary damages: rent statement		$250.00
Compensation: fence		$570.00
Compensation: lawns		$360.00
Exemplary damages: Ventilation		$720.00
Exemplary damages: Insulation		$2,400.00
Exemplary damages: Draught		$2,400.00
Exemplary damages: Drainage		$1,200.00
Cost of HHS report		$287.50
Exemplary damage: Failure to maintain		$2,400.00
Compensation: internal lock		$150.00
Compensation: steps		$50.00
Compensation: front door lock		$50.00

[1] The order has been amended to order the Bond Centre to split the bond. See paragraph 205.

Total award	**$10,432.00**	**$11,337.50**
Net award to tenant		$905.50
BOND $1710	$804.50	$905.50

Reasons:

1. Both parties attended the hearing.
2. Mr [D]'s applications concern rent arrears and failure to notify him of the need for repairs.
3. Ms [S] has multiple claims that can be summarised as compensation and exemplary damages for failure to:
    a. provide all relevant documentation
    b. maintain the premises
    c. comply with Healthy Homes Standards
    d. mow the lawns.
4. It is also alleged that Mr [D] breached Ms [S]' quiet enjoyment, and the notice he gave to terminate was retaliatory.
5. Ms [S] seeks $14,843 in compensation, plus exemplary damages of $26,000.
6. The onus is on each party to establish their claims. The standard of proof is on the balance of probabilities.
7. The tenancy began on 23 March 2024, with the tenant and her partner moving in on 24 March.
8. On 14 December 2024 the landlord filed an application with the Tribunal seeking $4,540 in rent arrears. The parties attended mediation on several occasions, but no order was made at any time.
9. On 6 July 2025 the tenant applied to the Tribunal for a work order in relation to a number of matters, including leaks and Healthy Homes Standards HHS. She also sought an adjustment to the rent for having to mow the lawns.
10. On 7 July 2025 the landlord gave 42 days' notice, with an end date of 18 August 2025.
11. On 11 August 2025 the tenant made a further application for a work order and sought exemplary damages regarding numerous items.
12. The tenancy ended on 20 August 2025 after 17 months.
13. Following a part-hearing on 13 August, the applications were adjourned and the parties were directed to file further evidence to address the issues which were summarised in a minute and repeated below:

14. The onus of proof is on each party to prove their claims. The standard of proof is on the balance of probabilities.

A note about exemplary damages and unlawful acts

15. Some breaches of obligations under the Residential Tenancies Act 1986 (**the Act**), amount to an unlawful act, for which exemplary damages may be ordered. The maximum amounts payable are set out in a schedule to the Act.

16. Not all breaches of a tenancy agreement or of the Act are "unlawful acts".

17. First the Tribunal must decide if there has been a breach of the relevant section.

18. Second, the Act has to specify that a breach of that section amounts to an "unlawful act".

19. Then the Tribunal must decide if the "unlawful act" has been committed intentionally. That does not mean that the person knew that the act was unlawful, or that they intended any harm. A party cannot plead ignorance of their legal obligations as a defence.

20. Then the Tribunal **may** make an order for exemplary damages, if it thinks it would be just, taking into account the matters in section 109(4). Those are:
    a. the intent of that person in committing the unlawful act; and
    b. the effect of the unlawful act; and
    c. the interests of the landlord or the tenant against whom the unlawful act was committed; and
    d. the public interest.

21. Schedule 1A sets out the maximum orders that can be made for exemplary damages for each the unlawful acts.

22. Turning now to the issues:

Tenancy Agreement in writing

Did the landlord ensure tenancy agreement in writing and provide a copy to the tenant?

23. Section 13 says that the landlord must ensure the tenancy agreement is in writing, must sign it and provide a copy to the tenant. Failure to do so may amount to an unlawful act.

24. On 8 March 2024 the parties signed a tenancy agreement. It is two pages of a standard Tenancy Services tenancy agreement form. It contains the parties' names and contact details, addresses for service and the landlord's bank account. It records the commencement date of the tenancy, the rent and the bond. It specifies the maximum occupants, that a dog is allowed and that the landlord is responsible for the lawns.

25. A copy was provided to the tenant.

26. The tenant has not established that the landlord failed to comply with section 13 of the Act. There was a written tenancy agreement and a copy was provided to Ms [S].

Compliance with section 13A regarding tenancy agreement

Did the landlord ensure the tenancy agreement included all matters specified in section 13A?

27. Section 13A sets out the contents of the tenancy agreement. The agreement between the parties contained the matters required by section 13A(1), including those set out above. However, section 13A sets out other matters that must be included but were missing. Mr [D] had not provided statements:

    a. About insulation[2]

    b. Confirming that he would comply with Healthy Homes Standards as required under the Act[3]

    c. Advising whether or not the premises are insured and if so, how much the excess is.[4]

28. Failure to include this information amounts to an unlawful act[5] for which the Tribunal may award exemplary damages up to a maximum of $750.00.

29. Ms [S]' application had also sought exemplary damages for failing to provide HHS information under section 45(1AD)(a). This section says that it is an unlawful act if a landlord fails to comply with section 45(1AC) which says that if the tenant requests the landlord to provide information described in section 123A(1)(e) (relating to the healthy homes standards) to the tenant, the landlord must, within 21 days after the date of receiving the request, provide the information to the tenant.

30. At the hearing Ms [S] acknowledged that she had not made a request for that information. Her grievance is really captured by the failure to provide the statement required in the tenancy agreement.

Should an order for exemplary damages be made?

31. I find that Mr [D] committed this act intentionally. He was aware that the agreement was deficient. At the time of signing, he wrote a saying, "Hi Leonora. This is not the complete tenancy agreement. More to fill in yet. Just the basic

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[2] Section 13A(1A)
[3] Section 13A(1CA)
[4] Section 13A(2)
[5] Section 13A(1F)

details for rent and bond. Please read over, sign it and email back to me thanks".

32. The full agreement did not follow.

33. From 21 November 2024, Ms [S] made a number of requests for a complete tenancy agreement. The evidence shows the following:

    a. Email 21 November

    b. Email 15 December

    c. Email 16 December

    d. Text 16 December

    e. Email 4 January

    f. Email 6 January.

34. On 30 June 2025, Mr [D] completed a Healthy Homes assessment, on the mistaken belief that it was required by 1 July 2025. The correct dates for compliance are discussed below.

35. At the hearing, Ms [S] said that she needed a Healthy Homes Statement or Assessment for WINZ, who would not assist with rent arrears in the absence of a full rental agreement confirming that the premises complied with Healthy Homes Standards. I advised the parties that I was unaware of this requirement. Ms [S] had no email or other documentation from WINZ about this issue. During the hearing with the parties present, I looked up the WINZ website and could find no evidence that WINZ requires a Healthy Homes Statement in order to assist with rental arrears.

36. The parties attended mediation in February this year, and in an email from the mediator to the parties it was confirmed that Ms [S] had said that she needed the HHS for that purpose. Therefore, since February the landlord has been aware that the tenant believed she needed it to obtain assistance from WINZ for payment of rent arrears.

37. Ms [S] also wanted a full rental agreement because she wanted her partner's name on the agreement. This was relevant to her request for WINZ assistance when he was made redundant. However, I find that is a different issue. She was seeking a variation to the agreement so that her partner's name was added. That was not set out in any of the texts or other communication provided to the Tribunal, and that is not relevant to my assessment of compliance with section 13A.

38. There is a public interest that landlords, including Mr [D] are reminded of their obligations under section 13A. He omitted a number of matters. He was aware that he had not provided the full agreement and that it was important to Ms [S] that he did so. He had said at the start of the tenancy that it would be provided.

Ms [S] asked for it more than once and this was important to her, given the number of issues she was experiencing with cold, draughts and dampness in the house.

39. Accordingly, I order **$500.00** in exemplary damages for the failure to comply with all aspects of section 13A.

Rent summary/receipts

Did the landlord keep adequate business records of all payments of rent paid by or on behalf of the tenant, sufficient to enable the landlord to comply within a reasonable time with any request made by the tenant under section 29(3) (request for a written statement?)

40. Payments of rent were made to the landlord's bank account. The landlord produced a handwritten rent summary for the Tribunal.

41. Section 29(3) of the Act says that on the written request of the tenant, the landlord must give to the tenant a written statement of the period to which any payment of rent relates. Section 29(5) says that failure to comply with such a request amounts to an unlawful act. The maximum amount for exemplary damages is $350.

42. The Act does not define a specific number of days for "reasonable time." Given that the landlord is expected to keep records, it would be reasonable to expect a landlord to provide a written record within a week unless unusual circumstances make that difficult.

43. In May 2024 the parties were in discussion about rent arrears. It is apparent from the rent summary provided to the Tribunal that the tenants had fallen behind in rent payments, and there was text communication and the situation was rectified. The tenant said that she asked for a rent summary at that stage. The landlord did not recall.

44. On 21 November 2024 the landlord notified the tenant by text that her rent debt was up to $4,800 and he was going to the Tribunal.

45. The tenant replied the same day, asking for a rent summary. She also emailed that request.

46. On 14 December 2024, the landlord applied to the Tribunal for an order for payment of rent arrears. A rent summary was provided in the application, but this was not in response to the tenant's request. It showed arrears owing up to 14 November 2024 were $4,825.00. Mr [D] did not send separately send a copy of the rent summary to Ms [S].

47. On 16 December 2024, the tenant again texted requesting a rent summary, as well as some other information.

48. On 5 January 2025, the landlord texted that he would visit, which was not convenient for the tenant, but the next day he sent her a copy of the rent summary from the Public Library scanner. The tenant acknowledged receipt of this via text.

49. There is no evidence that before 6 January 2025 the landlord provided a rent summary or any other rent records. He said that he knows that he sent a couple from the library scanner, but he did not send a copy to himself at the same time, and so he does not know what dates they were.

50. Where a tenant alleges that a landlord has not complied with a request for information, the onus is on the landlord to prove that he did comply. The landlord should have sufficient systems and processes to be able to show that.

51. Based on the evidence presented by the tenant, I find that from 21 November 2024 she made repeated requests for a rent summary, but did not receive one until 5 January. That is not a reasonable time and so I find that the landlord committed an unlawful act.

Should an order for exemplary damages be made?

52. Any landlord should be ready to provide such a record without delay. Failure to do so on request is an intentional act.

53. It is evident that Mr [D] operates a paper system, and so he should be able provide copies to the tenant and also make records confirming when he complied with requests. That could be done in a number of ways. He could have taken a photograph and texted it to the tenant. He could have offered to take the document to the tenant so she could see it and have taken a photograph herself. He could have gone to the library and scanned it to her much sooner than he did.

54. It was particularly important that the landlord acted promptly on this request when he was asking the tenant to remedy a failure to pay rent. This was not simply a technical breach. His failure to respond had a material impact on the resolution of this issue, including the ability for the tenant to obtain assistance from WINZ.

55. Taking into account the impact on the tenant, the public interest in ensuring that landlords keep proper records and make them available to tenants, and the need to remind the landlord of his obligations, I have decided that an order for exemplary damages should be made. The maximum is $350. I order **$250**.

Quiet enjoyment

Did the landlord cause or permit any interference with the reasonable peace, comfort, or privacy of the tenant in the use of the premises by the tenant?

56. Ms [S] claims that the landlord interfered with her quiet enjoyment of the premises.

57. Section 38 says that the landlord must not cause or permit any interference with the reasonable peace, comfort, or privacy of the tenant in the use of the premises by the tenant. In this section, premises includes "facilities" which is defined in section 2 as including the lawns and gardens.

58. Before the tenancy began, the tenants and landlord had a discussion about the fence. The landlord was in the process of replacing the fence. He had completed three sides. They agreed that that the final fence line would be moved, creating more space between the house and the fence so that it provided more security for their vehicles and also because they had a dog.

59. The tenants were expecting the fence to have been completed by the time they moved in, but it was not. Ms [S] says that Mr [D] turned up nearly every day to work on the fence but little progress was made.

60. Ms [S] said that on two occasions Mr [D]'s friend, Naomi, turned up drunk and the two had an argument. Naomi had belongings in the sleepout.

61. It is unfortunate that one of the landlord's associates visited the property, but it is reasonable to hold the landlord responsible for that.

62. Ms [S] said that people turned up at the premises looking for drugs. Again, I am not satisfied that the landlord is responsible for that.

63. It is the ongoing work on the fence that may constitute a breach of quiet enjoyment.

64. Ms [S] said that Mr [D] was cutting concrete and using power tools. It meant that she had to stop working from home. She said that she told Mr [D] that the noise was disturbing her.

65. Mr [D] said he was unaware that the tenant was disturbed by the ongoing work on the fence. He said that he was there 2 or 3 days a week for 3 or 4 hours at time. The fence has not been completed.

66. A landlord visiting the premises and working outside over a period of time may constitute a breach of quiet enjoyment. Ongoing loud noise would also be unreasonable. However, the onus is on the tenant to establish the extent and degree of this intrusion on her quiet enjoyment. Based on the evidence before me, it is difficult to quantify, and I am not persuaded that there was a breach of quiet enjoyment to the extent that an order for compensation is warranted.

67. There is nothing in the evidence that suggests that the landlord's actions amount to harassment and so no order for exemplary damages is justified.

Failure to complete the fence

Was Mr [D] required to complete a fence at any time before or during the tenancy?

68. The fence was a bone of contention for other reasons. It simply was not completed during the tenancy.

69. Ms [S] was expecting the fence to be completed before she moved in.

70. The landlord disputed that he had said that the fence would be completed before the tenants moved in. He said that once the tenancy commenced, it transpired that he could not complete it because the tenant's partner wanted to park his car where the landlord needed to put a post.

71. The landlord's understanding was that the old fence would remain. He did not expect it to replace the old fence.

72. The tenants had expected the old fence to be removed at the same time as the new fence went up, not to have post by post before the old fence was removed.

73. The tenant said that if the fence had been completed in a day or so, then they could have moved the car for it to be completed. However, the landlord was working on the fence slowly.

74. There is insufficient evidence of an agreement that the fence would be completed before the tenancy started. However, there was a reasonable expectation that it would be completed on or soon after the commencement of the tenancy, given the parties had talked about the need for fencing for their dog. They had also wanted to keep the vehicles behind the fence.

75. I find that the new fence did form part of the tenancy agreement and unless there were unusual circumstances, it should have been completed within a reasonable time after the tenancy started. A month should have been sufficient. Apart from the matter of the dog and vehicles, the impact on the tenant, and her partner was that they felt unsafe with people calling, including late at night looking for Mr [D]. If the fence had been completed, they would have felt safer.

76. I therefore order compensation of one week's rent (**$570**) for failure to complete the fence at any time during the tenancy.

Lawns

Should the tenant have a rent reduction for lawn-mowing during the tenancy?

77. The tenant seeks a rent rebate for having to mow the lawns during the tenancy.

78. Under the tenancy agreement, the lawns were the landlord's responsibility, but he did it only once.

79. Mr [D] said that he could not mow the lawns because the tenant's trailer was in the way.

80. Ms [S] said that this may have been the case on one occasion, but they were not asked to move it. The tenants got a quote for lawnmowing, and it was $40 a

fortnight. They bought a lawnmower and now seek a rent rebate of $20 a week over 73 weeks. This totals $1,460.

81. I find that Mr [D]'s excuse for not mowing the lawns might justify missing the lawns on one occasion, but it is no excuse for the remainder of the tenancy. He should have ensured he took care of the lawns. Mr [D] noted that there was not much grass on the lawn, as is evident in the photos. This appears to be as a result of the accumulation of water on the property because of the poor drainage discussed below.

82. In a text dated 5 January 2025 the tenant raised a number of issues, and said, "We have been maintaining the gardens and lawns which was meant to be included in the rent."

83. Mr [D] has breached a condition of the tenancy agreement and should pay some compensation for the lawn mowing, but I do not order the amount claimed for the following reasons:

    a. The tenant did not pay $1,460 to have the lawns mowed.

    b. The amount payable to a professional lawnmower does not equate to the amount of rent payable or deductable when a tenant mows the lawns.

    c. There is no evidence that Ms [S] raised this issue with the landlord before her text of 5 January 2025, which is 40 weeks since the start of the tenancy. She therefore did not attempt to mitigate her loss by raising this with the landlord before then.

    d. I find it unlikely that the lawns were in fact mowed every fortnight because they are very sparse, albeit as a result of the poor guttering.

    e. The landlord did mow the lawns on one occasion.

84. I order compensation of **$360**, which equates to a rent rebate of $5 a week for 72 weeks.

Driveway

Was the landlord responsible for repairing the driveway/

85. Ms [S] says that there were potholes and nails in the driveway which caused damage to her partner's vehicle when they first moved in.

86. There was no discussion before they moved in that the driveway needed to or would be repaired.

87. In May 2024 there was a discussion between the tenants and landlord about repairing the driveway, with the tenant assisting.

88. I do not find that any agreement about the driveway formed part of the tenancy agreement.

89. There was insufficient evidence before me to decide if the driveway required repair or maintenance such that the landlord failed in his obligations under section 45 to maintain the premises in a reasonable state of repair. This claim is dismissed.

Healthy Homes Standards

Did the landlord comply with the Healthy Homes Standards under section 45 (1)(bb)?

90. Section 45(1)(bb) requires landlords to comply with the Healthy Homes Standards (**HHS**).

91. Ms [S] claims that the landlord has breached a number of Healthy Homes Standards (HHS).

92. She obtained a HHS assessment before she left the house. The report (**HHS report**), prepared by RH Consultants on 20 August 2025, says that the property does not meet the following standards:

    a. Insulation

    b. Moisture ingress and drainage

    c. Ventilation

    d. Draught stopping.

93. Ms [S] seeks reimbursement of the cost of the HHS report $287.50 as well as exemplary damages. An invoice for the report was provided.

Insulation

94. The Residential Tenancies (Smoke Alarms and Insulation) Regulations 2016 set out the standards for insulation.

95. From 1 July 2019, all residential premises must be insulated to a minimum standard. Where the premises were insulated before 1 July 2016, the ceiling insulation must have an R-value of at least 1.9 (or 1.5 for houses of a brick or concrete block construction). The underfloor insulation must have an R-value of at least 0.9. The insulation must be in reasonable condition.

96. Where insulation is installed after 1 July 2016, the minimum R-value for ceiling insulation is 2.9 in Zones 1 and 2, and 3.3 for Zone 3 (Zone 3 covers the South Island and central North Island). The minimum R-value for underfloor insulation is 1.3.

97. There are exceptions to these requirements, for example, where it is not reasonably practicable, or where there is a habitable space above or below the ceiling or floor that would otherwise have to be insulated.

98. Breaching this obligation is an unlawful act for which exemplary damages may be awarded up to a maximum of $7,200.00. See section 45 (1)(A) and Schedule 1A RTA.

99. The HHS report shows that there are gaps in the insulation, it is not thick enough and is mouldy. Parts of the insulation need to be removed and in all cases and extra layer is required. The photos in the report as well as the ones provided by the tenant provide clear evidence in support. The insulation is inadequate.

100. The landlord did not dispute this.

101. I find that the landlord has failed to comply with the insulation standard and has committed an unlawful act.

Ventilation

102. Compliance dates for the remaining HHS vary. For tenancies that began 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. This tenancy started on 23 March 2024 and the property had to comply with all standards no later than 21 July 2024, which is 17 weeks and one day after the tenancy began.

103. 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.

104. There is no extractor fan in the bathroom. According to the HHS report, the installation of mechanical extraction with the capacity of 25 l/s or ducting of at least 120mm is required to meet the HHS.

105. The landlord has failed to comply with this standard and has committed an unlawful act.

Moisture ingress and drainage

106. 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.

107. The HHS report says there is a high risk of moisture ingress created by the following:

    a. A circular hole in the wall, about 2.5cm in diameter. It says that penetrations through the cladding must be sealed to prevent water entering the home's wall cavities.

b. Another hole in the wall/window frame on the outside of the house.

c. A lack of head flashing over the aluminium joinery on a window.

d. Flashings and scribers are also required over a vent and over another window.

e. Gutters are leaking.

f. Two downpipes from the roof not connected to a suitable underground stormwater system.

g. A rotten/dilapidated window frame and doorframe.

h. Gaps in the joinery of the weatherboards on one corner.

i. Pooling of water is evident in the grounds.

j. Moisture damage around the door frame for the French door was noted.

108. The report also referred to evidence of moisture damage in the sunroom, and said that given the present condition of the roof, ongoing monitoring is essential to detect any leaks that may arise.

109. Mr [D] did not dispute these matters.

110. The photos in the report and others provided by the tenant show a property in a very poor state of repair.

111. I find that the landlord breached the moisture ingress and drainage standard and has committed an unlawful act.

Draught-stopping

112. The draught stopping standard requires that residential premises be free from unreasonable gaps and holes that are not an intentional part of the building, which allow draughts to arise.

113. The HHS report identified gaps as follows:

a. Around the French doors.

b. Around a window in the lounge.

c. In a window frame in Bedroom 1.

d. In a window frame in Bedroom 2.

e. The two holes in the exterior referred to above at paragraph 105 a. and b.

f. Underneath the window referred to above at paragraph 105 d.

g. The window frame referred to at paragraph 105 g. above.

h. A disconnected solatube in the ceiling of the hallway.

114. The solatube is a type of skylight, where the tube should connect between the roof and the ceiling, but it has been disconnected and left to lie in above the ceiling, without being sealed.

115. Again, Mr [D] did not dispute t matters. I find that he has failed to comply with this standard and has committed an unlawful act.

Should compensation and/or exemplary damages be ordered?

116. Where a party has committed an unlawful act intentionally, the Tribunal may award exemplary damages where it is satisfied it would be just to do so, having regard to the party's intent, the effect of the unlawful act, the interest of the other party, and the public interest. See section 109(3) RTA. The maximum order allowed under schedule 1A of the Act for a breach of section 45(1)(bb) is $7,200. Mr [D] has failed to comply with four standards and so there are four breaches.

117. The acts have been committed intentionally. Mr [D] was well aware of the state of his property including the insulation. He did not take the necessary steps to ensure compliance. The insulation should have been compliant at the start of the tenancy, and the other three items no later than 21 July 2024.

118. In a text dated 5 January 2025, Ms [S] raised a number of issues, including her belief that the house was not healthy home compliant. Mr [D] took no steps to ensure compliance at any time during the tenancy.

119. The breach of the ventilation standard is not as serious as the others in that there was a window in the bathroom and the impact on the tenants is not so great. Nonetheless, the landlords should have ensured compliance and a small order of exemplary damages is warranted. If a landlord wants to receive rent for a property, they must ensure that the premises comply with all legal requirements, including HHS. I order **$720.00** for breach of the ventilation standard.

120. The remaining three are much more serious. For each of these standards there were multiple breaches. It is not a case of a gap around one window, or a small area where the insulation was thin or missing. Mr [D] failed to meet the standards by a wide margin. The impact on the tenants would have been significant. Although the heating standard was met, the house was damp, draughty and inadequately insulated.

121. Therefore, I have decided that the tenants should be awarded **$2,400** for breach of the insulation standard. Insulation has a significant impact on the warmth of a house, the standard has existed since 2019 and the photos of the insulation show it is in a very poor state.

122. I order **$2,400** for draught stopping. The draught that affected the tenants the most was the one in the ceiling where there had been a solatube. Other

draughts that affected the tenant during the tenancy are discussed below under Failure to maintain. These were not draughts to the outside.

123. I order **$1,200** for moisture ingress. The lack of guttering also affected some other matters such as the door step, which are also considered under Failure to maintain.

124. The failures were significant ones and were very obvious on viewing the photographs. Mr [D] had simply not made proper attempts to ensure that the house was fully compliant by the due date which was 21 July 2024 or at any time after that..

125. The tenant has been successful in her application regarding HHS and it is reasonable that she is reimbursed the fee of **$287.50** shown in the invoice from Total Home Inspection Services.

Failure to maintain

126. The tenant listed the following items[6] that needed repair:

    a. Leaks in bedroom 3, sunroom, lounge
    b. Hole in kitchen window
    c. Missing glass panes in sunroom door
    d. Fusebox tripping
    e. Broken front steps
    f. Faulty guttering/ lack of downpipe
    g. Blocking draughts
    h. Mouldy insulation
    i. Faulty locks on internal and external doors

127. Under section 45(1)(b), the landlord must provide and maintain the premises in a reasonable state of repair having regard to the age and character of the premises and the period during which the premises are likely to remain habitable and available for residential purposes.

128. For each of these items I have considered:

    a. Was the landlord, or should the landlord have been, aware of each them?
    b. Were they repaired in a timely manner?
    c. If there was a failure to maintain, does it amount to an unlawful act?
    d. Are exemplary damages warranted?

[6] There had been a further claim about the deck being unsafe, but on being told that the height of the deck did not require a railing, the tenant withdrew this claim.

Leaks

129. There were several leaks during the tenancy. Ms [S] said that the worst one was in Bedroom 3. There was a noticeable hole in the ceiling. You could see the insulation was black. They had not seen this room before they moved in, because someone was occupying it.

130. Ms [S] said that on 8 May 2024 when the landlord was at the property, she spoke to him about this and one in the sunroom. He said he would look at them. On 21 May he messaged to say he was going to look for the leak.

131. Mr [D] agreed that he was aware of these leaks. There was a hole in the lounge from a previous flue for a gasburner. The leak was coming from this. He had sprayed some expanding foam in it.

132. That did not fix the leak. Ms [S] said that the leaks were ongoing. On 11 July 2024 she spoke to him again about them.

133. On 21 November 2024, Ms [S] sent an email in which she asked for a rent summary. She asked about the fence and roof repair. She said, “The leaks are still in the roof of the house”.

134. Unfortunately in November Mr [D] had been robbed at gunpoint. He was understandably shaken by this event and this means that he is unsure of some events around that time, and it led to some delays in his responsiveness.

135. On 4 January 2025 Ms [S] again asked about the leaks.

136. Mr [D] said that the sunroom leak was mentioned at the mediation earlier this year. When the tenants went away in February he looked at the leaks in the bedroom and sunroom. Ms [S] said that the bedroom and leak stopped after that.

137. The parties agree that in late 2024 Ms [S] notified Mr [D] about the lounge leak. He agreed that at the first mediation phone call on 16 January he was told about the leak.

138. At a mediation in May 2025, Mr [D] asked for another four weeks to fix the leaks.

139. On 3 July 2025 Ms [S] sent Mr [D] a video showing it was still leaking. At the same time, she mentioned the gutter was still leaking. The lounge leak was never rectified. Mr [D] said that since the tenancy has ended, he has been in the house, and has not noticed a leak.

140. The photographs show that the house was in a poor state of repair. The landlord was tardy in addressing matters and when he did attend to the issues, he attempted what could best be described as makeshift measures. He did not at any time engage a roofer or other tradesperson to address the leaks. For one leak he installed a funnel and some tubing to take the leak outside.

141. I find that by not adequately addressing the leaks, the landlord did not provide or maintain the premises in a reasonable state of repair as required under section 45(1)(b).

Kitchen window

142. There was a hole in the kitchen window before the tenancy began. The parties agreed it was about the size of a tennis ball. Ms [S] understood that it was to be fixed at the start of the tenancy. Mr [D] thought that her partner was going to repair it.

143. Ms [S] and her partner boarded up the window. She said it was discussed every time Mr [D] turned up. It was also referred to in the email of 21 November.

144. The fact remains that it is the landlord's responsibility to provide and maintain the premises in a reasonable state of repair. He knew that there was a hole in the window and he should have ensured it was repaired. This did not happen until February 2025. I find that he has breached his responsibilities under section 45(1)(b).[7]

Missing panes in sunroom doors

145. There was a door between the sunroom and the lounge and between the sunroom and the bedroom.

146. Although the sunroom door was an internal door between the lounge , the missing panes contributed to the coldness because the heating was escaping into the sunroom. The tenant raised this at the start of the tenancy. Mr [D] said that the panes were hard to replace because they were leadlight. That may be true, but as a landlord, he needed to come up with a solution, which was probably to replace the doors. I find this is a breach of section 45(1)(b).

Fusebox

147. Ms [S] said that the Fusebox tripped every day. They could use only two elements on the stove at a time. She told Mr [D] about this in January, February and May.

148. Mr [D] thought that it seemed alright. He did not get an electrician or anyone else to look at it.

149. I find that in the circumstances, Mr [D] needed to call an electrician to check assess the problem. This caused considerable inconvenience to the tenant and she raised it on multiple occasions. This should have prompted Mr [D] to organise an independent assessment by a suitably qualified person, not only because of the inconvenience for the tenant but because of the possible safety risks for the occupants.

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[7] It would also have been a breach of the HHS.

150. Mr [D] has breached his obligations under section 45(1)(b).

Broken steps

151. The wooden front door steps were breaking down as a result of the gutter not being connected to the storm water and leaking on to them. This was evident in the photographs Ms [S] provided.

152. Although related, this is separate from the breach of the moisture ingress and drainage HHS. The impact on the tenants is that the step was broken, regardless of the cause.

153. Ms [S] said that she spoke to the landlord about it when he was working on the fence. Mr [D] said that he did not know about it until August 2025 when we had a case conference.

154. I find that Mr [D] was aware or ought to have been aware of this issue. It is apparent from the photographs that the steps are not in a good state of repair. And it is also apparent that it is being caused by water coming from the guttering. He also should have been aware of the state of the guttering.

155. I find this is a breach of his obligations under section 45(1)(b).

Front door lock

156. The tenant said that the front door lock fell off a few times and they fixed it. It is mentioned in a 3 July 2025 Facebook message.

157. Mr [D] said that it had previously been forced and he had repaired it.

158. The tenant said that it was difficult to close the door and when they did close it, the lock fell off.

159. The lock was not in a good state of repair at the start of the tenancy, and the tenants should not have had to replace it. I find this was a breach of section 45(1)(b).

Internal locks

160. Ms [S] seeks reimbursement of a locksmith callout fee of $150 on 12 August 2025.

161. Because in the past the premises had been let to several tenants, the bedroom doors had locks on them. Keys were provided. Towards the end of the tenancy, Ms [S] son got locked in a room. The keys did not work and so they had to get a locksmith to help get him out. Ms [S] said that she rang, but it did not go to voicemail.

162. Mr [D] was not aware of this incident and said no attempt had been made to get hold of him to see if he had a key or could help unlock the door.

163. According to the invoice, the incident happened after hour, but before 10pm.

164. The landlord should have made sure that the tenant had the correct keys. It was reasonable that when the tenant could not get hold of the landlord, that a locksmith was called.

Should exemplary damages be ordered?

165. I have found that in a number of respects, Mr [D] has failed to provide and maintain the premises in a reasonable state of repair.

166. I make the following modest orders for compensation:

    a. broken step $50

    b. front door lock $50

    c. callout fee for internal locks $150.

167. Ms [S] seeks exemplary damages. Failure to comply with section 45(1)(b) is an unlawful act[8] for which a maximum of exemplary damages of $7,200 is payable. For the remainder, I have decided an award of exemplary damages is appropriate.

168. I find that the issues of the leaks, the hole in the kitchen window, the missing pains in the sunroom doors would have had a significant impact on the tenant.

169. Mr [D] needed to seek the assistance of a qualified roofer to address the leaks once and for all. Instead, he implemented makeshift, temporary measures.

170. It was not acceptable to let the property out with a hole the size of a tennis ball in the kitchen window. That would have had an impact on the warmth of the premises.

171. The fusebox shorting would have had a significant impact on the tenant. The landlord needed to have it seen to by a qualified electrician, not only to reduce the inconvenience for the tenant, but also to reduce any concerns about safety.

172. The missing panes in the sunroom also affected the tenant's ability to keep the premises warm.

173. There is a public interest in reminding landlords that tenants are entitled to expect that repairs will be undertaken in a timely and professional manner. Reliance on the number 8 fence wire is not adequate.

174. I have considered that a global award of $2,400 exemplary damages is justified for these failures to maintain.

[8] See section 45(1A).

Retaliatory notice

175. On 7 July 2025 the landlord gave the tenant 42 days' notice, meaning the tenancy would end on 17 August 2025. The tenant claims the notice is retaliatory.

176. For a notice to be declared retaliatory, the tenant must prove that in terminating the tenancy, the landlord was motivated wholly or partly by the tenant exercising a right under the tenancy agreement or any Act, or by any complaint against the landlord. See section 54(1) Residential Tenancies Act 1986.

177. Giving a termination notice which is declared to be retaliatory is an unlawful act for which exemplary damages may be awarded, up to a maximum of $6,500.00. See section 54(2), (3) and Schedule 1A Residential Tenancies Act 1986.

178. The tenant says that the landlord gave notice after she applied to the Tribunal on 6 July 2025 for work orders.

179. Mr [D] says that on the day he gave notice, he was unaware of her application. He had not been notified of it. He had been aware of her complaints about the property since they had attended mediation in January and February 2025 regarding his application for rent arrears, but had not given notice to her.

180. I find it unlikely that Mr [D] was aware of Ms Wolmaran's application to the Tribunal at the time he gave her notice. The Tribunal's file shows that on 12 July 2025 Tenancy Services asked the tenant for more information, and that her application was on hold. On 7 August the parties were notified of a hearing date and the file shows that on 12 August the landlord was asking for a copy of the application.

181. Mr [D] said that it was Ms Wolmaran's failure to honour an agreement to clear the rent arrears with weekly instalments of $30.00 that made him decide that he would take the property back.

182. I find that the notice was likely motivated in part by the numerous issues that the tenant had raised since their mediations in January and February. Therefore, under section 54(4), I must declare the notice retaliatory and find that the landlord has committed an unlawful act.

183. Where a party has issued a retaliatory notice, the Tribunal may award exemplary damages where it is satisfied it would be just to do so taking into account the effect of the unlawful act, the interests of the other party, and the public interest. For completeness giving of a retaliatory notice does not have to be intentional to award exemplary damages for a breach. See section 109(3) and (3A) Residential Tenancies Act 1986.

184. I have decided that an order for exemplary damages is not justified in this instance. Mr [D] had applied on 14 December 2024 for rent arrears of $4,540. He had grounds for a termination order for rent being in arrears by more 21

days on 10 May 2024 and then from 21 June 2024 to the end of the tenancy in August 2025.

185. The ongoing tenancy was not viable for several reasons. The tenant's rent arrears were ever increasing and the premises require a considerable amount of time and money in order to get the premises in rentable condition. He is already being penalised for not attending to this when required.

186. I do not consider it reasonable to order exemplary damages for retaliatory notice in this instance.

Contamination

187. The tenant also said that the landlord provided contaminated premises, in breach of section 45(1AB) of the Act. She says that there was toxic mould present and relies on the HHS report.

188. The HHS report says, "Mould has been observed on insulation batts in certain isolated areas. It is advisable to remove any affected insulation before adding new insulation to prevent the potential spread of toxic mould throughout the space".

189. Contaminant is defined in the Act as methamphetamine and or any substance prescribed, or within a class of substance prescribed, as being a contaminant for the purposes of the Act. No substances have been prescribed at this stage.

190. Therefore the only substance that is currently defined as a contaminant is methamphetamine. The tenant has provided no evidence to show the presence of methamphetamine or that the landlord was aware of it.

191. The tenant has not established that the premises were contaminated. This claim is dismissed.

192. I add that the nature of the mould in the insulation is unknown. It has not been tested. The HHS report simply spoke of the potential spread of toxic mould.

Rent arrears

193. The landlord provided a rent summary, showing the amount owing at the end of the tenancy was $10,432. The tenant did not dispute the rent summary but added that they had not been able to use the third bedroom for a flatmate because of the leaks and not meeting the Healthy Homes Standards. The tenant asked the Tribunal to order rent reduction.

194. The issues in the bedroom do remove the tenant's obligations to pay rent. The issues of leaks and HHS are addressed above under section 45 and the landlord's failure to provide a rent summary has also been dealt with. Orders have been made for exemplary damages.

195. From January 2025 the tenant had been provided with a rent summary, by which stage the rent arrears were up to $5,000, but the rent arrears continued to accrue because of part payments of the weekly rent.

196. The tenant has not disputed the rent summary. She is ordered to pay $10,432 in rent arrears.

Failure to inform about sunroom leak

197. The landlord had sought exemplary damages for the tenant's failure to inform him about the sun room leak before it was discussed at mediation.

198. Under section 40(1)(d), a tenant must notify a landlord as as soon as possible after discovery, of any damage to the premises, or of the need for any repairs. Failure to do so is not an unlawful act and so exemplary damages are not payable.

199. Compensation is sometimes payable where, for example, where there is dampness in a wall or floor and it transpires a leak in a slow leak in a pipe has caused damage over a period of time. If the tenant has failed to advise in a timely manner, the landlord's loss has been increased.

200. I find it more likely than not that the tenant notified the landlord of the sunroom leak at the same time as the others. It is very unlikely that she would not have mentioned it given she raise other issues with the premises. Therefore the landlord has not established that she failed to notify him.

201. I add that even if it were established that the tenant had failed to notify him, the state of the property is such that an order for exemplary damages would not be justified.

202. This is not a situation where, out of the blue, a landlord is informed that there has been a leak for some time. Mr [D] was at the premises attending to other leaks. In the context of the several issues raised, it would have been prudent to undertake a proper check of the roof, and as mentioned above, the services of an independent contractor were probably required.

203. This claim is dismissed.

Conclusion

204. The net effect of Ms [S]' applications is that she is not required to pay the rent arrears and Mr [D] owes her $905.50.

205. In the original decision issued on 28 October 2025, I said that neither party has applied for a release of the bond and so I could not make an order in relation to the bond. Ms [S] contacted the Tribunal advising that was incorrect. On a further review of one of her application forms I see I had overlooked that she had asked for a refund of the bond. I have therefore recalled the decision and amended the order so that the Bond Centre is now directed to split the bond

between the parties. The only amendments made to the reasons in this decision are this paragraph. The date has also been amended.

206. Ms [S] applied for name suppression. Both parties have been substantially successful and so there are orders for non-publication of the names of both parties.

207. There is no order for reimbursement of the filing fee to either party.

T Baker
30 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.