TENANCY TRIBUNAL AT [Event location suppressed]

APPLICANT: [The applicant/s]

Tenant

RESPONDENT: [The respondent/s]

Landlord

TENANCY ADDRESS: [Tenancy address suppressed]

ORDER

1. An application for suppression has been made in this case, and the Tribunal orders suppression of the name of both parties and their identifying details.
2. The application for termination of the tenancy is dismissed.
3. [The landlord/s] must carry out the following work to the premises, which must be completed by 30 November 2025:
    a. Repair the faulty extractor fan / heater in the main bathroom so that it is compliant with Healthy Homes Standards, functional and fit for purpose.
4. If the landlord fails to comply with Order 3 above, then the tenant may undertake the work and charge the landlord the cost of this work up to $1500.00. These costs may be set off against rent payable.
5. [The tenant/s] must pay [The landlord/s] the sum of $257.50, as set out in the table below:

Item	Landlord	Tenant

Compensation for the condition of the pool leading to presence of rodents		$800
Compensation for the water ingress incidents		$2500
Rent arrears to 4 November 2025	$3527.50	
Balance to be paid by tenant to landlord		$257.50

6. All other claims and cross claims are dismissed.

Reasons:

1. Both parties attended the hearing.
2. The landlord is claiming rent owing as at 4 November 2025 of $3,527.15 and has provided rent records which prove that is the amount that is owing. The tenant has not paid because she has a cross application. The landlord's application for termination and for rent needs to be considered hand in hand with the tenant's cross application, because if the tenant has a set-off which exceeds the amount of the rent claim, then no order for rent arrears can be made and termination is not appropriate.[1]
3. The landlord is also claiming for unpaid water charges. The tenant refuses to pay those because she claims the water bills are excessive due to the pool having to be refilled as a result of a continuous leak.
4. I deal first with the tenant's claims and then with the landlord's.

   Relevant facts

5. The tenancy in this matter commenced on 1 January 2024 and is on-going. The premises are a three-storey building. The top floor has one bedroom and one bathroom; the middle floor has three bedrooms, one bathroom, a kitchen, dining and living area; the bottom floor has one bathroom and one bedroom.
6. There is also a pool at the property. It was not disputed that the tenant did not have the obligation to maintain the pool. It was also not disputed that when she

[1] *O'Shea v Brown*, Akd HC, APP 110 – PL01, 12.12.2001, O'Regan J.

arrived at the property it was in need of maintenance and then deteriorated throughout the tenancy, largely due to the fact the pump was not working and the presence of a continuous leak. The tenant claims this then lead to the excessive water bills, which she claims should have been closer to $100 per month (which is all she has paid), but in some cases have crept up to over $400.

7. The tenant has applied for damages for breach of the landlord's obligation of maintenance and repair, in breach of s 45 of the Residential Tenancies Act 1986 (RTA).

8. At the case management conference in this matter, the tenant refined the list of faults with the property, and I have considered those in this decision.

9. I now deal with the evidence that was given in relation to each of the issues raised.

Rats and the pool

10. The tenant claims that there has been evidence of the existence of rodents from the outset. She saw rats outside the property near the pool and on the deck not long after moving in. The tenant claimed she requested the landlord to attend to the issue. The tenant was of the view that the half-filled stagnant water in the pool was likely attracting the rats. She says that when she initially complained to the landlord, she did nothing.

11. The landlord said they knew they needed to "close the pool". They had allegedly asked [City] Council whether the pool could be removed, but were waiting for approval from Council to do that, so that was the reason for the delay.

12. In June 2024, the landlord finally placed a cover over the pool.

13. In around August 2025, the tenant began seeing evidence of rats inside of the home. She saw their excrement and she saw a rat in the kitchen on many occasions. She produced photographic evidence of the rat excrement, taken in around August and September of this year.

14. The tenant complained to the landlord and produced evidence of this in the form of a text message. The tenant then issued a 14 day notice on 22 September 2025 for the landlord to remedy the rodent problem. This was after this application had been filed.

15. The landlord said she has never heard about the rat's complaint until getting the 14 day notice. Upon receiving the notice, she arranged for a pest control contractor to attend at the property on 23 September 2025. They put bait boxes in the property inside and outside the property. She believes this has remedied the issue.

The faulty clothesline.

16. The tenant claims the clothesline was broken when she moved in. She then fixed it but it broke again. Eventually a new clothesline was installed in July 2025 by the landlord, but it is smaller than the original, although it appears to be functional.

The main bathroom has no extractor fan and the fan that is there is only a heater and does not work anyway.

17. The tenant said there is no extractor fan in the bathroom. She says the lack of extractor fan meant there was mould in the bathroom, although she accepts was able to open the windows. She claims that all that is there is a heater, and it does not work.

18. The tenant claims she complained to the landlord about this issue in around January or February 2024. She claims she sent an email to the landlord about it, but she was unable to provide the email. She then said she also complained verbally to the landlord about this.

19. Nothing was ever done to remedy the issue, according to the tenant.

20. Her evidence was corroborated by her partner, who said he personally raised the issue of the extractor fan with the landlord.

21. The landlord says the property does have a working extractor fan and that this issue has never been raised before. She said she always asked if there were any issues when doing her regular inspections and the tenant never raised anything about the extractor fan.

22. I note there is however an email in the file from the tenant dated 24 September 2024 raising the issue of the fan in the main bathroom and asking about “[Name]” coming to install it.

23. The landlord is insistent the property passed a Healthy Homes report which refers to there being a working extractor fan and the landlord supplied a report dated November 2021.

24. I note further that the extractor/heater fan issue in the bathroom is not the subject of the 14 day notice the tenant has issued.

The extractor fan is missing from the kitchenette downstairs.

25. The ground floor bedroom had a small “kitchenette”, according to the tenant. It also had a small electric plate. This appears to have been placed there by the tenant, who the landlord claims has sublet this area to someone else.

26. The tenant says this issue is now rectified and that the landlord has now installed a ventilation system throughout the house. This was installed in about September 2025.

27. The landlord strongly denies the downstairs area has a kitchen; it has never allowed the downstairs area to be used as a kitchen. The landlord believes the tenant has sublet this part of the property to someone else.

There was a burst pipe at the property which took three months to fix, leading to dampness, mould and water ingress.

28. The tenant claims there was a leak at the property which began in around February 2024. Signs of the water ingress first emerged at the entrance to the property. The water ingress spread to the downstairs area.
29. The evidence of water ingress slowly got worse. When the tenant touched the wall, the wall would cave in. The carpet on the ground floor became damp. The carpet was so wet that the water would splash up as you walked over it. There were two massive holes in the walls in the downstairs area and you could see through to the foundations of the house.
30. It took several months for the issue to be fixed, according to the tenant
31. It turned out there was a burst pipe at the property which had caused the issue.
32. The tenant provided a number of photographs showing mould and dampness at the property. The gib has been removed from a section of the walls and the dampness and evidence of water ingress can clearly be seen behind the walls. She has provided a photograph of a mushroom growing out of the wall.
33. There was then a further leak in around April 2024. The tenant complained to the landlord about this issue and it was also repaired.
34. The issues were all fixed by around May to June 2024.
35. There was never any rent reduction during this time frame.
36. The landlord submits that it had nothing to do with repairing the damage caused by the water leak; this was all handled by the owner's insurer. The landlord said it took a long time to fix because the timber behind the walls had to dry out.

There is low water pressure at the property.

37. The tenant claims that she cannot use the dishwasher and the shower at the same time. There was no corroborating evidence provided of that or any issue with the water pressure.

The landlord's claims

38. Regarding the claim for water, the landlord claims the water owing as at 4 November 2025 is $569.96, but accepts that some of this charge relates to the cost of filling the pool should be deducted. The landlord suggests an appropriate deduction should be $200.
39. The tenant claims that none of the water bill is necessary. Usually, her water is bill is $100 per month. She claims to have been paying that and refuses to pay any more than that.
40. I had no detailed water rates summary provided to me prior to or during the hearing but it was submitted afterwards. It was roughly consistent with what the

tenant had said, that her water bills were around the $100 mark per month and then they have jumped up. There is one that is around $450 per month (Sept 2024). She has consistently paid $100 per month.

Burden of proof and relevant law

41. I explained the concept of the burden of proof to the parties in my directions issued following the case management conference.

42. The parties have the obligation to prove their respective claims on the balance of probabilities. They must collect the relevant evidence they rely on and produce that evidence to the tribunal. Corroborating information such as expert reports, photos and emails can be an important part of proving their claim but ultimately it is over to them as to what evidence they decide to bring and call at the hearing. It is not for the tribunal to extract or locate the evidence, or to hunt down and call witnesses itself.

43. A 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. A landlord must also comply with all requirements in respect of buildings, health, and safety under any enactment so far as they apply to the premises.[2]

44. The obligation of the landlord to provide premises in a reasonable state of repair is not absolute. A landlord does not have to foresee a latent and unobservable defect before it causes damage (see *Barfoot & Thompson v Casey*.[3]) Further, a tenant must notify the landlord as soon as possible after discovery of any damage to the premises and the need for repair. [4] The landlord's obligation is to then repair within a reasonable time after knowledge of the need for repair.[5]

45. 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”.[6]

46. 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.

47. 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

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[2] Section 45 of the RTA
[3] DC Auckland CIV 2005 004 1762, at [28]
[4] Section 40(1)(d) of the RTA, *Vu v Hutchings* [2016] NZTT 4054247, at [13]
[5] *Collins v Professionals Hutt City Ltd* DC Wellington CIV 2009 085 1431, at [15]

should do so in good faith and to remedy a real and significant breach[7]. However, notice from the tenant is not required if the landlord knew of the need to repair [8] or the need for repair was apparent from observation[9].

Findings

The pool and the rats

48. I find that at the date the tenancy agreement was entered into, the pool was in a leaking, unsafe condition with stagnant water and should have either had a new water pump installed and repaired or else been covered off.

49. The landlord was clearly aware of the problem, because they had sought consent from Council about "closing off" the pool.

50. The uncovered pool and stagnant water most likely were attracting pests. It likely led to the initial rat problem.

51. From the time when the tenant entered into the tenancy and the pool was covered off, the landlord was in breach of s 45 of the RTA. I consider an award of $800 of damages in favour of the tenant by way of compensation is appropriate for this failing relating to the pool on the landlord's part. I consider that amount does adequate justice here.[6]

52. I find the rat issue has recently returned. I consider this re-emergence to be more recent because I consider the tenant would have raised this problem in writing earlier, had it been an ongoing issue. The matter was the subject of the 14 day notice and I accept the evidence of the landlord that it has sent a pest control contractor to the property.

53. There is inadequate evidence proving that the recent attempt by the landlord to address this issue has not remedied the problem.

54. I am not prepared to award the tenant any compensation for the further appearance of the rats because I consider the breach was remedied by the landlord when it was identified, based on the evidence that was available.

The clothesline

55. I find that the clothesline broke and at that point the landlord had the obligation to repair it. The landlord did the repair by installing a new clothesline, albeit a smaller one.

56. I consider the landlord adequately remedied this issue and that no compensation is payable.

The extractor fan/ heater in the bathroom

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[6] Section 85 of the RTA.

57. The evidence establishes that at some point prior to the tenant taking on this tenancy, this property had a compliant extractor fan.

58. I accept the tenant's evidence the fan is broken or faulty in some way, but I am not satisfied the landlord has been recently informed of this fault. I note that this aspect is not the subject matter of the 14 day notice. I accept the landlord's evidence that they are unaware of this being an existing problem.

59. I make a work order for this to be repaired, as ordered above.

Downstairs kitchenette.

60. I dismiss this claim. The downstairs room does not have a kitchen and should not be used for that purpose. There was no obligation on the landlord to supply the kitchen facilities downstairs. The downstairs area arguably should not be separately tenanted out as a self contained unit.

The leaks and the water ingress

61. The evidence establishes that for several months, the tenant's enjoyment of the property was accompanied by having to deal with repairs, following the water ingress instances.

62. The landlord offered no rent rebate during that time, because the tenant was short paying rent anyway.

63. I consider it appropriate to award the tenant $2500 by way of compensation for the landlord's breach of s 45 of the RTA with respect to the leaks and the water ingress. I accept this would have been highly disruptive and inconvenient for the tenant.

64. I dismiss the applications for exemplary damages. I am not satisfied there have been intentional unlawful acts here. I consider the landlord has attempted to remedy issues with the property relatively promptly, and I note that some of the tenant's issues seem largely historic.

65. I note that the tenant had also claimed breach of Healthy Homes standards for some of the issues I have found in her favour above, but offered no independent corroborating evidence such as her own expert reports about how any of the standards had not been attained. I have alternatively dealt with the tenant's claims under s 45 of the RTA, and I consider this therefore does adequate justice between the parties and provides a fair remedy to the tenant.[7]

The water pressure

66. I dismissed the tenant's claim for low water pressure as the tenant has not proven this amounts to a breach of s 45 or that she has suffered any damages as a result.

[7] Section 85 of the RTA.

The landlord's claim

67. Regarding the claim for water, the landlord claims the water owing as at 4 November 2025 is $569.96. The water summary is more consistent with the tenant's evidence though, that the water was around $100 per month but then has irrationally jumped up. Even the landlord accepts that at least some of this is due to the leaky pool.

68. I dismiss the landlord's claim for unpaid water because I consider the landlord has not proven on the balance of probabilities that this water was consumed by the tenant. More likely than not it relates to the leaking pool.

69. The landlord has established that the rent owing as at 4 November 2025 is $3,527.15, as is ordered above. The orders I have made in favour of the tenant are to be set off against this amount.

70. Both parties have had a measure of success and so I award neither the return of their filing fee. I do however consider it appropriate to award name suppression as to the names of both parties.

D Watson
05 November 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.