[2025] NZTT 5310340

TENANCY TRIBUNAL AT NORTHSHORE

TE TARAIPIUNARA RETIHANGA KI ŌKAHUKURA

APPLICANTS: [The applicant]

Tenant

RESPONDENT: Zhuobin (King) Wei

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. Zhuobin (King) Wei must pay [The tenant] $5,440.88 immediately.

Description	Landlord	Tenant
Compensation: Failure to maintain- Pests		$714.29
Compensation: Failure to maintain- Dampness and mould		$714.29
Compensation: Additional power usage due to dampness		$120.00
Compensation: Failure to provide smoke alarms		$357.15
Compensation: Breach of insulation standard		$357.15
Exemplary damages: Section 45(1) of the RTA breaches		$2,400.00
Exemplary damages: Breach of statutory requirements required to be tenancy agreement		$750.00
Filing fee reimbursement		$28.00
Total award		**$5,440.88**
Total payable by Landlord to Tenant		**$5,440.88**

Reasons:

1. The tenant and his son attended the hearing on 11 November 2025. The tenant 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.
3. The tenant applied for compensation, general damages, exemplary damages, refund of the bond and reimbursement of the filing fee at 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.

General legal principles in relation to the award of compensation or exemplary damages

11. The Tribunal can award compensation where a party has been in breach of the Residential Tenancies Act 1986 (the RTA) or has been in breach of the tenancy agreement, and the other party has suffered a loss because of that breach. Awards of compensation in the Tribunal are generally modest. When awarding compensation, the accepted principle is that the injured party should be put in the same position as they would have been but for the breach, since there is liability for losses flowing from the breach. Factors such as the loss of amenity, stress and inconvenience suffered by the party that has proven the breach are considered when deciding the quantum of any compensation awarded.

12. Exemplary damages can also be awarded for breaches listed in Schedule 1A of the RTA, provided the Tribunal is satisfied that the breach was intentional. Exemplary damages are a penalty designed to deter parties from intentionally engaging in the kind of behavioural conduct provided for in Schedule 1A of the RTA.

TENANT'S CLAIMS

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

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

14. 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]

15. 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.

16. 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].

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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].

17. There is also failure to repair if the repair is ineffective, non-complaint or unsafe[5].
18. Under section 45(1)(bb) of the RTA, a landlord must comply with all requirements in respect of smoke alarms imposed on the landlord by regulations made under section 138A of the RTA.
19. Under section 45(1)(bb) of the RTA, a landlord must also comply with all the healthy homes standards.
20. Breaching any of these obligations is an unlawful act for which exemplary damages may be awarded up to a maximum of $7,200.00 for all the s45(1) of the RTA breaches the tenants are claiming. See section 45(1A) and Schedule 1A Residential Tenancies Act 1986.
21. General damages may also be awarded in the form or rent reductions or compensation for the stress, inconvenience and loss of amenity suffered by the tenants.
22. In order to award exemplary damages, the Tribunal must be satisfied that the landlord committed the unlawful act intentionally, and it would be just to award exemplary damages, having regard to the party's intent, the effect of the unlawful act, the interests of the other party, and the public interest. See section 109(3) Residential Tenancies Act 1986.

Failure to maintain

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

Failure to Undertake Pest Control

24. The tenant says that the house was full of cockroaches and mice when they first moved in, and he talked to the landlord about the house being full of these pests. The landlord told the tenant that the contractors had left the doors open to much and that is probably how they got in. The tenant says the landlord did not take the issue seriously.
25. By 11 July 2025, the tenant asked the landlord to come to the house to investigate the pest issues. He did not come. The tenant was so concerned about the mice that he called a pest control contractor who came that day to investigate the mice issue. The pest control team didn't find a clear entry point, but they mentioned that the mice might be getting in through small gaps or under the house. They placed bait stations around the house and suggested monitoring for any further

[5] *Staife v Aegis Trust* [2016] NZTT Auckland 3314 at [31].

activity. The tenant received a rent rebate to offset the pest control cost of $184.00.

26. The landlord never arranged to have the gaps investigated to stop the mice entering the premise nor did he arrange to have any contractor come to address the cockroach infestation.

27. The tenant was so distressed about the number of mice and cockroaches in the house, especially with his children living in the house, he made the decision to find new rental accommodation and moved out on 20 July 2025.

28. The tenant has provided video, photographs of the mice, mice droppings and cockroaches from various places throughout the premise and WhatsApp messages between him and the landlord that prove he had raised the pest issues with the landlord and the landlord had failed to address these issues in a reasonable timeframe in all the circumstances.

29. I am satisfied the tenant first made the landlord aware of the pest issues on 28 May 2025 when he first moved not the house and then again at various times in early July 2025.

30. I find the landlord failed to investigate and remediate the pest issues in a reasonable time frame in all the circumstances and that the tenant should receive a rent rebate of $100.00 per week for the period of 7 weeks and 4 days (28 May 2025 to 20 July 2025) he and his children have suffered the stress and inconvenience of having to live with mice and cockroaches throughout their tenancy, being a rent rebate of $714.29

31. I also find that this breach was an intentional unlawful act for which exemplary damages should be awarded.

32. A maximum of $7,200.00 exemplary damages can be awarded for all s45(1) of the RTA breaches and as such, the quantum ordered under this section will be set out at the end of the s45(1) of the RTA breach section of this order.

House damp and cold

33. The tenant says the house was very damp and cold and that he had to run the heat pump all the time. The moisture level in the air was very high and made it hard to heat.

34. There was a lot of mould around the window frames, on the walls, inside all the cupboards, in the bathroom, and the clothes in the wardrobes also became mouldy very quickly. There was also a lot of condensation of the windows all the time, despite the house being regularly aired out.

35. The tenant informed the landlord when he moved in about the mould and dampness issues. The landlord said the house was warm and sunny but as it had been locked up for a while that it may need to be aired out to dry it out. Despite

doing this, the dampness in the house never resolved and the mould issues continued.

36. The landlord never came to investigate the reasons for the ongoing dampness and did not obtain moisture readings to ascertain if there were leaks or other issues causing the high level of dampness.

37. The tenant was also concerned that the house was not properly insulated and that may be contributing to the level of dampness in the house. The tenant says he used a lot of electricity as he had to run the heat pump 24 hours a day 7 days a week.

38. The tenant has provided video, photographs of the high levels of mould from various places throughout the house and communications that prove he had raised the dampness and mould issues with the landlord and the landlord had failed to address these issues in a reasonable timeframe in all the circumstances.

39. I find the landlord failed to investigate and remediate the pest issues in a reasonable time frame in all the circumstances and that the tenant should receive a rent rebate of $100.00 per week for the period of 7 weeks and 4 days (28 May 2025 to 20 July 2025) he and his children have suffered the stress and inconvenience of having to live with mice and cockroaches throughout their tenancy, being a rent rebate of $714.29

40. I also find that this breach was an intentional unlawful act for which exemplary damages should be awarded.

41. A maximum of $7,200.00 exemplary damages can be awarded for all s45(1) of the RTA breaches and as such, the quantum ordered under this section will be set out at the end of the s45(1) of the RTA breach section of this order.

42. I also award the tenant $120.00 compensation for the additional power used to try to dry the house out during the tenancy by having the heat pump running all the time. The tenant has produced power bills that prove he was using between $60.00 to $80.00 more power each month than he did in his prior tenancy and in his current tenancy.

Smoke alarms- breach of TA and breach of regulations

43. Section 45(1)(ba) of the RTA states the landlord “shall comply with all requirements in respect of smoke alarms imposed on the landlord by regulations made under section 138A”.

44. The tenants claim the rental premise had no working smoke alarms when the tenant moved in, and none were installed during the tenancy. The tenant has produced photographic and video evidence to prove his claim.

45. Fire and Emergency New Zealand (FENZ) website, www.fire.org, confirms both landlords and tenants take some responsible for smoke alarms as follows:

a. Landlords must ensure smoke alarms:
    i. are working at the start of each new tenancy;
    ii. remain in working order during the tenancy; and
    iii. That are not working are replaced with photoelectric smoke alarms.
b. Tenants must:
    i. not damage, remove, or disconnect a smoke alarm;
    ii. replace dead batteries during the tenancy if there are older-style smoke alarms with replaceable batteries; and
    iii. let the landlord know if there are any problems with the smoke alarms as soon as possible.

46. I am satisfied that the tenant has proven that the landlord failed to ensure the rental premises were fitted with working smoke alarms that meet the regulatory requirements referred to in the RTA. The tenancy agreement does not record any specific information about smoke alarms either.

47. I find that the tenant should be awarded compensation for the breach of the landlord's obligations to provide smoking smoke alarms for the period 28 May 2025 to 20 July 2025 being 7 weeks and 4 days, at $50.00 per week. I award total compensation of $357.15 for this breach for the stress of living with the risks associated with not having these lifesaving devices throughout their tenancy.

48. I also find that this breach was an intentional unlawful act for which exemplary damages should be awarded.

49. A maximum of $7,200.00 exemplary damages can be awarded for all s45(1) of the RTA breaches and as such, the quantum ordered under this section will be set out at the end of the s45(1) of the RTA breach section of this order.

Did the landlord breach the healthy homes standards?

50. The tenant claims that the landlord has breached his obligations under section 45(1)(bb) of the Residential Tenancies Act 1986 (RTA), which requires compliance with the Residential Tenancies (Healthy Homes Standards) 2019 (HHS). [The tenant/s] considers that the landlord has failed to comply with the HHS heating standard.

51. 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.

52. The tenancy commenced on 28 May 2025. The landlord had to ensure the premise complied with all the healthy homes standards by 1 July 2025.

A. Insulation

53. The tenant claims that the landlord has failed to insulate the premises in accordance with the Residential Tenancies (Smoke Alarms and Insulation) Regulations 2016.

54. 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.

55. 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.

56. 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.

57. The tenant says the house did not meet the insulation standard. He went under the house and found the underfloor insulation was patchy and not covering the entire floor and was not thick enough to be compliant with the standard.

58. There has been no third party independent detailed healthy homes assessment and report undertaken by either party to prove or disprove the tenant's claim.

59. I find that the tenant should be awarded compensation for the breach of the landlord's obligations to provide underfloor insulation for the period 28 May 2025 to 20 July 2025 being 7 weeks and 4 days, at $50.00 per week. I award total compensation of $357.15 for this breach for the stress and inconvenience of living with a damp cold house that was not fully insulated.

60. I also find that this breach was an intentional unlawful act for which exemplary damages should be awarded.

61. A maximum of $7,200.00 exemplary damages can be awarded for all s45(1) of the RTA breaches and as such, the quantum ordered under this section will be set out at the end of the s45(1) of the RTA breach section of this order.

B. Moisture Ingress and Drainage

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

63. The moisture ingress and drainage standard require 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.

64. The HHS does provide exemptions in specific circumstances.

65. The tenant said that there was so much mould coming through the walls that this indicated that there was a significant issue. Specifically, there was mould between the two bedrooms, which did not have any walls from the outside of the house. This, the tenant says means there was significant moisture inside the house coming from somewhere.

66. There has been no third party independent detailed healthy homes assessment and report undertaken by either party.

67. The tenants were unable to provide the Tribunal with sufficient evidence of the following issues to satisfy their burden of proof on the balance of probabilities that the premise did not meet the moisture and drainage standard because there was no healthy homes assessment completed and no photographic or video evidence of any breaches of this specific heathy homes standard.

Exemplary damages for s45(1) of the RTA breaches

68. I have found that the landlord has committed two intentional breaches of s45(1)(b), one of s45(1)(ba) of the RTA and one of s45(1)(bb). These breaches resulted in the tenant being exposed to pests and damp, cold and mouldy conditions that created a loss of the amenities he was paying rent to enjoy, in addition to causing stress and inconvenience to the tenant and his children and putting their lives at risk by not providing working and compliant smoke alarms.

69. I find the landlord has committed these unlawful acts intentionally.

70. 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 interests of the other party, and the public interest. See section 109(3) Residential Tenancies Act 1986.

71. I am satisfied it is in the public interest to penalise a landlord that breaches its s45(1) of the RTA obligations. In all the circumstances outlined above I find it just to award $2,400.00 exemplary damages to the tenants, being one quarter of the maximum penalty available for s45(1) of the RTA breaches.

Did the landlord provide the statutorily required healthy homes compliance statement, insulation statement, healthy homes standards information and smoke alarm information in the tenancy agreement?

72. The tenant claims that the landlord has breached his obligations under section 13A(1A), 13A(1CA) (a) and (b) and 13A(2) of the Residential Tenancies Act 1986.

73. Under section 13A(1A) the landlord must include in the tenancy agreement a statement, made and signed by the landlord that describes whether or not there is, as at the date of the tenancy agreement, any insulation installed in connection with any ceilings, floors, or walls that are at the premises and the details of the location, type, and condition of all insulation that is, as at the date of the tenancy agreement, installed in connection with any ceilings, floors, or walls that are at the premises.

74. Under s13A(1CA), a landlord must include in the tenancy agreement a statement, made and signed by the landlord, that, on and after the commencement of the tenancy, the landlord will comply with the healthy homes standards as required by section 45(1)(bb) or 66I(1)(bb) (as the case may be); and including the information (if any) prescribed by regulations under section 138B(5). The Residential Tenancies (Healthy Homes Standards) Regulations 2019 require that the landlord provides a statement in each tenancy agreement that confirms that the premises complies with each of the five healthy homes standards or why the premises are subject to any lawful exemptions. These five standards relate to heating, insulation, ventilation, moisture ingress and drainage and draught stopping. This provision also requires the landlord to record how many smoke alarms are in the premise, when the smoke alarms were last tested and when they expire.

75. The requirement that the landlord's statements under 13A(1CA) be signed by the landlord is in addition to the requirement under section 13(1) that the landlord sign the tenancy agreement.

76. If the landlord is unable to provide some or all the information required, they must include a statement explaining what information cannot be obtained, why it cannot be, and that all reasonable efforts have been made to do so. See section 13A(1B) and (1C) Residential Tenancies Act 1986.

77. Breaching the landlord's s13A(1A) or (1CA) of the RTA obligations without a reasonable excuse is an unlawful act for which exemplary damages may be

awarded up to a maximum of $750.00. See section 13A(11F)(a) and Schedule 1A Residential Tenancies Act 1986.

78. The tenant received a tenancy agreement, that did not contain an insulation statement, a healthy homes compliance statement, any of any of the required healthy homes standards information or why such information could not be provided or any smoke alarm or insurance information (e.g how many smoke alarms there were, when they were last tested and when they expire). As such, the tenant had no idea when he took on the tenancy, whether the premises were fully healthy homes compliant, whether any exemptions apply to the premises, whether there were smoke alarm(s) that were compliant with statutory requirements and whether the landlord had insurance that limited the tenant's liability for costs associated with any careless or deliberate damages to the premise.

79. I find the landlord has committed an unlawful act.

80. Where a party has committed an unlawful act intentionally, pursuant to section 13A(1F)(a) of the RTA, the Tribunal may award up to a maximum of $750.00 in 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 interests of the other party, and the public interest. See section 109(3) Residential Tenancies Act 1986.

81. I am satisfied the landlord failed to provide the tenant with the required completed and signed healthy homes statements and smoke alarm information prescribed by sections 13A(1A),13A(1CA) and 45(1)(bb) of the RTA, or the insurance information prescribed by s13A(2) of the RTA.

82. I find the landlord intentionally breached 13A(1CA) of the RTA and that it would be just to require the landlord to pay a sum of $750.00 exemplary damages because:

    a. The landlord should have reasonably known that he is required by to provide the tenant with healthy homes and smoke alarm information with a written tenancy agreement

    b. The tenant is entitled to rely on his statutory right to receive information about:

        i. whether the premise was healthy homes compliant and if it wasn't, was it exempt from these requirements;

        ii. whether the premise has compliant smoke alarms, where they are located, when they were last tested and when they expire; and

        iii. If the house has the required insulation and meets the standard or is exempt for any reason;

    c. t is in the interests of the tenant to receive compensation for the landlord's breach; and

d. it is in the public interest for landlords to be penalised as a disincentive to breaching their obligations ensure the tenants have healthy homes compliance information, smoke alarm information and healthy homes standards information given to them prior to the commencement of the tenancy so they can make an informed decision whether or not to rent a non-compliant premise.

Reimbursement of filing fee

83. 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.

84. Because the applicant has substantially succeeded with his claims, I have reimbursed the filing fee.

Name suppression

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

86. 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.

87. The tenant has substantially succeeded in this proceeding, and 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.

88. Non-publication of the tenants' names and identifying details are ordered.

M Pollak
11 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 for the payment of less than $1000
- a final order to undertake work worth 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.