TENANCY TRIBUNAL AT REMOTE LOCATION | TE TARAIPIUNARA RETIHANGA

APPLICANT: Barfoot & Thompson Limited As Agent For Balwant Mangat

Landlord

RESPONDENT: Pauline Moore

Tenant

TENANCY ADDRESS: 91A Taikata Road, Te Atatu Peninsula, Auckland 0610

ORDER

1. The Bond Centre is to pay the bond of $1,740.00 (BN-00159831) immediately apportioned as follows:

Barfoot & Thompson Limited As Agent For Balwant Mangat:	$1,143.98
Pauline Moore:	$596.02

Description	**Landlord**	**Tenant**
Rent arrears to 13 November 2025	$1,650.00	
Advertising	$227.13	
Viewings	$366.85	
Compensation: Breaches of s45(1)(a) and (b)		$1,100.00
Total award	**$2,243.98**	**$1,100.00**
Net award	$1,143.98	
Bond	$1,143.98	$596.02

Reasons:

1. Both parties attended the hearing held on the 12 December 2025.
2. The tenant has been a tenant of Barfoot and Thompson for many years. Both parties describe a previous harmonious relationship across other tenancies.
3. The tenant wanted to move to from her previous tenancy due to antisocial neighbours. She came to the viewing of this tenancy premises on a sunny day. She says that the ranch slider was open, as were the windows. The blinds were up and curtains pulled to one side. She says that she only spent 15 minutes viewing the property. She says that during the viewing other people were present. She tells me that she liked the indoor-outdoor flow of the property and did not notice any musty smells when she was there.
4. On the 22 September 2025, she signed a one-year fixed term tenancy for the property for a rental of $580 per week commencing on the 10 October 2025.
5. The tenant says that when she went to move into the property on the 10 October, she was extremely disappointed with the condition of the property. She says it was 'uninhabitable' she says that property was dirty, light fittings were broken, blinds dirty and worn, the insinkerator was emitting a foul smell and there were flies around it. The kitchen cupboards were swollen and broken and the place smelled musty and mouldy. The tenant also says that the washing machine was falling to bits and curtains were mouldy, and not hung property and when she touched the towel rail in the bathroom it fell off the wall.
6. The tenant immediately went to the property managers office and complained. She said that she now longer wanted to move into the property because she was concerned that the property would have a detrimental effect on her health as she suffers from a preexisting condition which is worsened in damp and mouldy conditions. She also felt that if the landlord was prepared to rent this property to her in that condition that it was a good indication as to how the property had been maintained in the past and she was worried she would have continual issues at the property. She submitted:

   I felt that the overall condition of the house reflected how it had been maintained and would likely continue to be managed. Because of this, I did not feel comfortable moving forward with the tenancy.
7. The tenancy premises had, by the 10 October 2025, been vacant for almost 6 weeks. The property was listed for rent on the 13 August and the agent conducted viewings of the property until the 22 September when the tenant signed the fixed term tenancy.
8. The landlord conducted an entry inspection on the 8 October 2025. The entry inspection was provided to me. It is comprehensive and includes written descriptions and photographs. The property manager said that the property was

reasonably clean and tidy and as she had noticed some ‘bug slime’ on the carpet she had vacuumed the carpet.

Other issues noted in the landlord’s inspections notes were:

- The door had to be opened with both hands.
- The light fitting in the bedroom was falling off
- There were small amounts of mould on the roller blinds
- The curtain in the bedroom was in a bad condition and needed replacing.
- The deck needed a wash and some planks were ‘wobbly’
- Some bits of the cladding were rotten
- The gutter needed cleaning.

9. The landlord agreed to release the tenant from her fixed term tenancy on the basis that she was liable for rent until new tenants were found and that she paid the costs of breaking the tenancy agreement.
10. The tenant never moved into the property and handed the keys back on or about the 15 October 2025.
11. The tenant agrees that she should pay the costs of breaking the fixed term tenancy, but wants her rent and bond returned. She does not believe that she should be liable for the rent until a new tenant is found because the landlord breached their obligations to provide the property in a reasonably clean and tidy and maintained condition.
12. The property was re tenanted on the 14 November at a lower rent of $550 per week. Barfoot and Thompson seek the costs of reletting the property of $593.98 (advertising and viewings) and rent until the new tenancy at a reduced rent of $550 per week.

The law on fixed term tenancies

13. A tenancy for a fixed term is a binding legal contract. Like any contract, parties must be satisfied that they are happy with the terms and conditions of the contract **before** they enter into the contract. Under normal circumstances, fixed term tenancies cannot be ended by either party, or one-party giving notice to the other.
14. Even if one party is in breach of their obligations to the other this does not allow them to terminate the fixed term contract
15. The only way that a fixed term contract can come to an end is if:
    a. The parties agree that it can; or

b. The Tribunal makes an order ending it.

Is the landlord entitled to rent until 13 November 2025?

16. The tenant submitted that the landlord was not entitled to rent until the 13 November because it had breached obligations in the Residential Tenancies Act 1986 but not providing the property in a reasonably clean condition and in a reasonable state of repair. The tenant submitted that the property was uninhabitable in the condition it was offered to her in.

17. The tenant is effectively arguing that the landlord repudiated the agreement by breaching the agreement at the outset.

18. Repudiation occurs when one party breaches the agreement to such a degree that it shows the other party that they do not intend to honour their obligations at all. The breach has to be so significant that it signifies to the other party that they don't intend to fulfil the contract. An example of this might be the landlord refusing to hand over keys to the property which would allow the tenant to take possession.

19. The Tribunal has determined in other cases before it, that when a landlord breaches its obligations, either at the beginning of the tenancy or during it, that this does not allow the tenant to simply terminate the tenancy.

20. A tenant must in the case, of a breach capable of remedy, give the landlord a notice pursuant to s56 RTA, and give the landlord 14 days to remedy the breach.

21. The Tribunal may terminate a tenancy if the breach of a party renders the property uninhabitable. – see s59A RTA.

Did the landlord breach the RTA?

22. The tenant claimed that the landlord did not provide the property in a reasonably clean and maintained condition.

23. The landlord's obligation is to provide the property in a reasonable state of cleanliness (see s45(1)(a) RTA). Reasonably clean does not mean spotless. When determining what is reasonably clean and tidy the Tribunal uses an objective standard.

24. Having considered all the evidence I am satisfied that the landlord did not provide the property in a reasonably clean and tidy condition and therefore breached s45(1)(a) RTA because:

    a. I consider that the photographs of the property show a property that is dirty in some places, such as cobwebs on the ranch slider and dirt on the floor.

    b. I accept the tenant's evidence that the house smelt mouldy and musty. The tenant immediately alerted the landlord to the smell.

c. I consider that most tenants would expect that when the property has been vacant for some time, as this one had been, that there would be a full clean of the property before the tenancy started. The property manager confirmed that she had done some cleaning, in particular vacuuming the floors as she had noticed slug slime on them, but I consider that given that there had been a six week interval between the last tenant's leaving and this tenancy starting, and that the agents had been conducting viewings with people going through the house during that time that the property would be cleaned, all surfaces wiped and floors vacuumed and moped and windows cleaned. That did not occur.

d. The food and dirt under the dishwasher showed that no attempt had been made to clean under the dishwasher. There had been a build-up of dirt under there that required cleaning.

e. The build up of dirt in the corners of the kitchen, show that the floors needed to be properly cleaned to remove the residue left in corners.

f. There were cobwebs and bugs on windowsills and slide track and in cupboards, this was probably as a result for how long the property as vacant.

g. The tenant gave evidence that insinkerator smelt bad, like rotten food. I consider that it was likely that there was food residue in the insinkerator and given the length of time that the property was vacant this had started to rot and smell.

h. The tenant said there was slime or bug residue on the carpet. I accept that this was the case, as the property manger had cleaned up the bug residue two days before.

i. Whilst I accept that the tenant's photographs were at times close up, this does not mean that those items did not need cleaning. The photographs show deficiencies in the cleaniness that needed to be resolved.

25. The landlord says that it sent its cleaner in on the 15 October to remedy the problem. The tenant says by that time she had already handed back the keys and decided she was not prepared to move in, the landlord had started readvertising the property.

26. The tenant says that the property was not provided to her in a reasonable state of repair.

27. Landlords have an obligation pursuant to s45(1)(b) RTA to provide the property in a reasonable state of repair, taking into account the age and character of the house.

28. The tenant says that there were the following problems with the property:

a. The kitchen cupboards were swollen at the property and there was wooden joinery at the bottom of the laundry cupboard that was swollen and rotting. The tenant says that this indicated previous issues with leaking.

b. That the washing machine had a dent in the top and one of the buttons was caved in.

c. That there was a light fitting in the bedroom which was hanging off the wall.

d. That the blinds were mouldy and one roman blind was missing strings that meant that it cold not sit properly when the blind was up.

e. That there was outside cladding that was rotting.

29. I am satisfied from the photographs and testimony provided by both of the parties that the landlord breached s45(1)(b) by failing to provide the property in a reasonable level of maintenance for the following items:

a. The towel rail that fell off the wall

b. The light fitting that was hanging by wires in bedroom. (Noted in the landlord's inspection report and photographs submitted by the tenant)

c. The blinds that were mouldy and worn.- again noted in the landlord's inspection report.

d. The roman blind which could not sit properly when pulled up.

e. That there were no curtains in the living room despite their being a curtain rail.

f. That the net curtains in the living room were badly hung and dirty.

30. The curtains and the blinds were all open on the day that the tenant viewed the property, and I do not consider it reasonable to expect tenants to put blinds and curtains up and down at a viewing to ensure that they are undamaged at viewings.

31. I do not find that the landlord failed to provide the kitchen in a reasonable state of repair. Whilst there was some swelling of the cupboards, I do not consider that this was unusual for the age or type of kitchen that was installed. I also note that it did not appear to affect the functionality of the kitchen.

What is the remedy?

32. Whilst I consider that the landlord has breached their obligations under the RTA, I do not consider that the property was rendered uninhabitable by the landlord's breach because the house could have been cleaned and the items that were broken fixed.

33. I do not consider that these breaches gave the tenant the right to simply walk away from the tenancy. The landlord agreed to let her out of the tenancy on the

basis that she was liable for rent until the end of the tenancy and pay their reasonable costs.

34. I consider that that the tenant is liable for rent until the end of the tenancy, that is for the period 10 October to 13 November 2025 and the landlord's cost of advertising and conducting viewings.

35. I am satisfied that the landlord's costs for advertising and conducting viewings were reasonable. The landlord provide evidence which showed its actual costs for advertising the property on different websites and the number of viewings it conducted.

36. However, I also award the tenant compensation of two weeks rent for the landlord's failure to provide the property in a reasonable clean and tidy condition and in a reasonable state of maintenance and repair. I consider that the landlord had ample time between the signing of the agreement on the 22 October and the start of the tenancy on the 10 October to ensure that the property was up to a reasonable standard. Issues with the property should have been addressed before the tenancy began. Whilst the landlord showed a willingness to address these issues when the tenant raised them, it should not have taken the tenant to complain to get these matters actioned. I also accept the tenant's point that tenants do not want to move into a home, and then spend the next few weeks accommodating tradespeople doing work that should have been done before the tenancy began.

37. In making this award I consider that it would have taken the landlord at least two weeks to get the work that needed doing at the property done to ensure that the property was compliant. During that time the tenant had to pay rent elsewhere.

38. In making this award I have also taken into account that the landlord has not required the tenant to pay the $30.00 difference in rent per week that it has lost because it accepted a new tenancy at a lower amount.

39. I consider this award a fair outcome that balances both parties' obligations.

Filing fee and name suppression.

40. As both have been partly successful, I consider that each should bear their own fees.

41. The landlord has requested name suppression. As the landlord has not been wholly successful, I do not grant the landlord name suppression.

T Prowse
15 December 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.