TENANCY TRIBUNAL AT AUCKLAND | TE TARAIPIUNARA RETIHANGA KI TĀMAKI MAKAURAU

APPLICANT:	[The applicant/s] Tenant
RESPONDENT:	Barfoot & Thompson Limited Greenlane As Agent For Meng, Fang Teo Landlord
TENANCY ADDRESS:	[Tenancy address suppressed]

ORDER

1. The Tribunal orders suppression of The Tenants' name and identifying details.
2. Barfoot & Thompson Limited Greenlane As Agent For Meng, Fang Teo must pay $728 to the Tenant immediately.
3. Barfoot & Thompson Limited Greenlane As Agent For Meng, Fang Teo's claim is dismissed.

REASONS

1. This tenancy commenced on 20 August 2025. The Tenant says the premises were unclean inside, there was rubbish in the communal gardens, the new oven had not been installed, the shower door was broken, and the driveway was cracked and muddy. The Tenant says that on the following day, the Landlord then entered the premises without providing the required notice. The Tenant now seeks $4,000 in compensation and exemplary damages:
2. The Landlord has filed a cross claim. It seeks to recover $165 for the cost of providing a key to the garage.

The issues

3. The issues I need to determine are:

(a) Were the premises in a reasonable state of cleanliness at the start of the tenancy?

(b) Were the premises in a reasonable state of repair at the start of the tenancy?

(c) Did the Landlord enter without providing the required notice?

(d) Is the Tenant entitled to exemplary damages?

(e) What remedy is the Tenant entitled to?

(f) Is the Landlord entitled to recover the cost of providing a key to the garage?

Were the premises in a reasonable state of cleanliness?

4. The Landlord was required to provide the premises in a reasonable state of cleanliness.[1] I find that it did not because of the condition of the inside of the premises and rubbish left in the communal areas.

5. The Tenant tried to move in on 20 August 2025 but was delayed because the premises were not reasonably clean. The Tenant has provided photographs taken on 20 August 2025. Those photographs show that, at least parts of the premises were unclean. The photographs show mould on a ceiling inside the wardrobe in one of the bedrooms, grime around the shower door, hair in the shower trap, an unclean toilet, rubbish under the kitchen sink and a discarded curtain and curtain rails and a broken mirror on the floor.

6. The photographs also show rubbish in the communal garden, including unemptied rubbish bins, abandoned pot plants, an old wooden pallet full of household rubbish and a stack of wood covered by a blue tarpaulin beneath the front steps.

7. Those communal gardens form part of the premises. The communal garden is a facility, as that word is defined in section 2 of the Residential Tenancies Act. For most purposes under the Residential Tenancies Act, a facility is not part of the premises. However, under section 45 – which sets out the Landlord's obligations – facilities are deemed to be part of the premises.[2]

8. The Landlord agrees that the premises were not clean on the morning of 20 August 2025. It arranged for the premises to be cleaned on 20 August 2025. The Landlord also arranged for all the rubbish to be removed on 20 August 2025. It seems that the inside of the premises remained unclean in places, so the Landlord arranged for cleaners to attend the next day. The Tenant says that the Landlord did not give her proper notice of the cleaners attending the next day, so she asked them to leave for the cleaning had been completed. The Tenant says that she then had to clean the mould from the shower and the venetian blinds.

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1 Residential Tenancies Act 1986, section 45(1)(a).
2 Residential Tenancies Act 1986, section 45(5).

9. The Tenant seeks compensation for the Landlord's failure to provide the premises in a reasonably clean and tidy condition. The Tenant has not proven that she has suffered any direct financial harm as a result. She says that she paid extra money to her movers because of the delay caused by the premises having to be cleaned, but she has not provided evidence of the payment made. Instead, I find that she is entitled to exemplary damages of $200 for the stress and inconvenience caused by the premises being unready for her occupation.

Were the premises in a reasonable state of repair?

10. The Landlord was required to provide the premises in a reasonable state of repair.[3]

11. The Tenants says that when she moved in, the driveway was cracked, bumpy and muddy and the shower door was broken. There was also no oven, and a pipe later developed a leak. The Landlord has since taken steps to remedy these issues and:

    (a) Agrees that there were no cooking facilities for five days. It provided a benchtop oven on 25 August 2025 and has offered to pay $200 in compensation. The Tenant has accepted that offer.

    (b) Does not agree that the condition of the driveway breached any of its obligations. It however, agreed to spread Gap 20 metal over the driveway to make it more even and less muddy. That repair occurred on 5 September 2025.

    (c) Agrees that the shower door was broken, and a pipe was leaking. It says those items were repaired on 20 August 2025, not 28 August as claimed by the Tenant.

12. I find that the premises were not in a reasonable state of repair. The evidence shows that the shower door was broken, there was no oven for the first five days of the tenancy and a pipe leaked. I also find that the driveway, which was a facility and therefore part of the premises for the purposes of the Landlord's obligation to provide the premises in a reasonable state of repair, was not in a reasonable state of repair. The driveway provided the only vehicular access to the rear of the premises, where the residents parked their cars, and the driveway was muddy and much of the concrete was broken.

13. The Tenant seeks compensation for the Landlord's failure to provide the premises in a reasonable state of repair. Again, the Tenant has not proven that she has suffered any direct financial harm as a result. But I am satisfied that she is entitled to general damages for the stress and inconvenience caused. I assess the appropriate level of exemplary damages at $300. The Tenant remained able to use the premises and, in my view, damages of this amount adequately

[3] Residential Tenancies Act 1986, section 45(1)(b).

compensate her for her stress and inconvenience. I include in this amount the $200 that the Landlord has offered as compensation for the absence of the benchtop stove.

Did the Landlord enter without providing the required notice?

14. On 20 August, the Tenant complained about the cleanliness of the interior of the premises. The Landlord arranged for cleaners to clean the premises on that day. The Tenant wanted more cleaning done, so the Landlord arranged for cleaners to return the following morning. It told the Tenant that cleaners would be coming, but did not provide notice of when that would occur.

15. The Tenant says that she was out that morning and returned to find that the property manager had let himself and the cleaners in, without her knowing. She was concerned that her cat would be at risk due to it nearly escaping when the cleaners entered. She immediately asked the property manager and cleaners to leave.

16. The Landlord's conduct was a breach of section 48(1) of the Residential Tenancies Act. Under that section, a landlord may not enter the premises during the tenancy except with the tenant's consent, in an emergency, or after giving the required notice for inspections and repairs and maintenance. Although the Landlord had indicated that the cleaners would return the following day, it had not provided the 24 hours' notice required by section 48(2)(d) if the Act.

17. The Tenant seeks compensation for this breach of her privacy. She is entitled to that. I assess the appropriate compensation as being $200. In setting this amount, I note that the Tenant has suffered no financial harm – so this compensation is by way of general damages – and the Landlord was trying to assist the Tenant and respond to the Tenant's concerns about the condition of the premises. In that way, I find that the Landlord was trying to act in good faith and was not motivated by ill will or malice.

Is the Tenant entitled to exemplary damages?

18. The Tenant also seeks exemplary damages. She says that the Landlord entered the premises without providing the required notice on 21 August. Under section 48(4), a breach of section 48(1) is an unlawful act, for which exemplary damages may be claimed. During the hearing, the Tenant advised that she now seeks those exemplary damages

19. The Tenant's application form did not include an application for exemplary damages. The application mentions only compensation. Likewise, the Notice of Hearing sent to the parties made no mention of an exemplary damages claim. Consequently, I cannot therefore hear the Tenant's exemplary damages claim because proper notice of that claim was not given.

20. Even if I could, I would have dismissed the exemplary damages claim. The Landlord did enter the premises without providing the required notice. There had

been a discussion about the Landlord returning with the cleaners on 21 August, but no arrangements were confirmed.

21. However, I accept that the Landlord was acting in good faith, and attempting to take urgent action to bring the premises to the state expected by the Tenant. I therefore find that the compensation that I have ordered for the Landlord's failure to give the required notice would have been sufficient to address any harm caused and to act to deter further such breaches by the Landlord.

What remedy is the Tenant entitled to?

22. The Tenant is entitled to recover a total of $800 in compensation for the various breaches of the Landlord's obligations. The Tenant is also entitled to recover the $28 filing fee as she has been substantially successful in her claim.

23. The Tenant expressly sought emotional harm damages. She says that she felt dismissed and disrespected by the Landlord, that the Landlord engaged in gaslighting behaviour and that she experienced sleepless nights and felt humiliated and undermined. Having objectively assessed the Landlord's conduct, I consider that the $700 in damages I have awarded are adequate compensation for the Landlord's conduct overall.

Is the Landlord entitled to recover the cost of providing a key to the garage?

24. At the bottom of the garden at the rear of the premises is a garage. That garage is not part of the unit that the Tenant occupies but is a facility available for the use of the occupants of the dwellings on that property.

25. The Landlord says that the Tenant asked for keys to the garage. The Landlord says that it told the Tenant that there were not any keys as the garage was not part of the tenancy but agreed to provide a key if the Tenant agreed to pay for it.

26. The Landlord then paid $165 to All Lock Services to have new keys made and it seeks to recover that amount from the Tenant.

27. As with the communal garden, the garage is a facility, and for the purposes of the Landlord's obligations under the Residential Tenancies Act, the garage is deemed to be part of the premises.[4]

28. Because the garage is part of the premises for the purposes of section 45, the Landlord was obliged to maintain the garage in a reasonable state of repair if it was offering the use of the garage to its tenants. That includes, in my view, ensuring that the garage is lockable. I therefore find that, having offered the garage to the Tenant for her use, it was the Landlord's obligation to bear the cost of providing keys. The Landlord's claim is therefore dismissed.

Name suppression

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[4] Residential Tenancies Act 1986, section 45(5).

29. The Tenant has been largely successful in her claim, so I order that her name and all identifying details are suppressed.

B Carter
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.