TENANCY TRIBUNAL AT REMOTE LOCATION | TE TARAIPIUNARA RETIHANGA

APPLICANT:	Brooke Darlison Landlord
RESPONDENT:	[The respondent/s] Tenant
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. The Bond Centre is to pay the bond of $2,040.00 ([Bond number suppressed]) to [The tenant/s] immediately.
3. All other claims are dismissed.

Reasons:

1. Both parties attended the hearing.
2. The landlord has applied for compensation, refund of the bond, and reimbursement of the filing fee following the end of the tenancy.

Background

3. The tenancy commenced on 21 December 2022 and ended on 15 May 2025.
4. At the end of the tenancy, the landlord says that due to extensive cat urine staining throughout the property and the resultant pungent smell, she was required to replace the carpet and underlay.

5. This has been quoted at $5,700.00 for removal of the damaged carpet and underlay and installation of new carpet and underlay, and the landlord seeks the bond amount of $2,040.00 towards this cost.

6. The tenant disputes these claims.

Civil standard of proof

7. With any claim before the Tenancy Tribunal, the Tribunal applies the usual civil law standards and expectations. That means that it is for the party bringing the application to establish their claims "on the balance of probabilities". That means that they must establish that what they are claiming is more likely than not. This 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,*[1] 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. I do not need to be completely certain, but I need to be more certain than uncertain. In deciding any particular 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.

Is the tenant responsible for the damage to the premises?

10. A landlord must prove that damage to the premises occurred during the tenancy and is more than fair wear and tear. If this is established, to avoid liability, the tenant must prove they did not carelessly or intentionally cause or permit the damage. Tenants are liable for the actions of people at the premises with their permission. See sections 40(2)(a), 41 and 49B Residential Tenancies Act 1986 (RTA).

[1] *Kaipo v Clarke & McCarthy* (DC) TT233/02.

11. Where the damage is careless, and occurs after 27 August 2019, section 49B RTA applies. If the landlord becomes aware of the damage after 27 August, the damage is presumed to have occurred after that date unless the tenant proves otherwise.

12. Where the damage is caused carelessly, and is covered by the landlord's insurance, the tenant's liability is limited to the lesser of the insurance excess or four weeks' rent (or four weeks' market rent in the case of a tenant paying income-related rent). See section 49B(3)(a) RTA.

13. Where the damage is careless and is not covered by the landlord's insurance, the tenant's liability is limited to four weeks' rent (or market rent). See section 49B(3)(b) RTA. Where insurance money is irrecoverable because of the tenant's conduct, the property is treated as if it is not insured against the damage. See section 49B(3A)(a) RTA.

14. Tenants are liable for the cost of repairing damage that is intentional or which results from any activity at the premises that is an imprisonable offence. This applies to anything the tenant does and anything done by a person they are responsible for. See section 49B(1) RTA.

15. Damage is intentional where a person intends to cause damage and takes the necessary steps to achieve that purpose. Damage is also intentional where a person does something, or allows a situation to continue, knowing that damage is a certainty. See *Guo v Korck* [2019] NZHC 1541.

16. The landlord claims that the tenant caused damage to the carpet through excessive staining and smell at the property, likely through cat urine. A written pre-tenancy inspection report has been provided that does not note any issues with the carpet/floor coverings. This does not include any pre-tenancy photographs.

17. The landlord has provided some post tenancy photographs, including a few blue/UV light pictures that appear to show stains, although it is not clear from the photographs themselves where these have been taken or exactly when they were taken. There are also two hallway photographs, and in one a white substance has been placed, and the landlord advised that this was where the staining was. The landlord has also provided a few photographs of bedrooms.

18. The landlord submits that in response she attempted to use cleaning products to lift the staining and smell, but this was not effective. The landlord has provided correspondence with Chemdry who advise that they are not able to quote the job without assessing the affected areas, but have quoted the call out costs, and starting prices for the treatment. The landlord has also submitted some generic advice on treating urine on carpeting.

19. The landlord has also provided a carpet replacement quote from Harrison's Carpet and Flooring, for carpet replacement to all wardrobes, three bedrooms, cupboards, lounge and walk in wardrobe totalling $5,700.00.

20. The tenant disputes the claim(s) and is shocked that these claims have even been made. She says that the final inspection was done together and there were no issues, and although she did have cats, they were trained to use litter boxes and never urinated inside. In addition, she says that she engaged professional gardeners, cleaners and had the carpet steam cleaned at the end of the tenancy (invoices provided). I note that none of these invoices make any comments around staining or smell.

21. The tenant has provided evidence from someone who advised that they assisted the tenant to pack up, and despite the windows and doors being closed, there was no cat smell in the house. Another witness gave evidence that they had visited the tenant several times and not once did they smell any odour at the property.

22. The tenant also says that the previous occupier lived there with their dog(s). She provided some photographs taken before the final inspection and there was no evident staining. She also says that she hasn't received any invoices showing anything has been paid for and she believes that the property has been rented out again already.

23. The landlord stated in response that the carpet was replaced throughout the property, and she had to go into debt to carry out the work. No evidence has been provided of this.

24. I note that the carpet was around 10 years old, and a letter has been provided by the previous owners of the property who confirmed this.

25. On review of the evidence provided, I do not consider that the landlord has proven that it is more likely than not that the tenant caused any carpet/smell/staining issues during the tenancy. There were no pre-tenancy inspection photographs of the carpet (including blue light or similar comparison used at the end), there is no expert or trade report to say that there is recent staining (of pet urine or otherwise), and/or no third party who has inspected and confirmed that the carpet cannot be remedied and therefore the carpet must be replaced.

26. Chemdry did not inspect the carpet, and their emails are instead based on photographs and statements from the landlord that the marks were cat urine.

27. I cannot be sure enough from the evidence provided that the tenant did damage the carpet, either carelessly or intentionally, during the tenancy.

28. If there had been extensive staining, you would also have expected the tenant's invoice from carpet cleaning to note that there was staining that was unable to be removed, and it did not do so.

29. As a result, I find that the standard of proof is not met and the landlord's claim for the bond towards carpet replacement is dismissed.

30. The bond is therefore directed to be awarded to the tenant.

31. The tenant sought name suppression, and as she has been substantially successful, this is granted. The landlord did not seek name suppression. See section 95A of the RTA.

R Harvey-Lane
17 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.