TENANCY TRIBUNAL AT WAITAKERE | TE TARAIPIUNARA RETIHANGA KI WAITĀKERE

APPLICANT: [The applicant]

Landlord

RESPONDENT: Jackie Henry

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 Landlord's name and identifying details.
2. Jackie Henry must pay [The landlord] $19,358.93 immediately, calculated as shown in table below.

Description	**Landlord**	**Tenant**
Insurance excess x 3 for non- methamphetamine related damage to bedrooms 1,2 &3	$3,750.00	
Insurance excess for methamphetamine decontamination	$1,250.00	
Missing kitchen blinds	$302.00	
Dining room wall damage repair and paint	$977.50	
Laundry door	$402.50	
Security lights	$345.00	
Bedroom 4 wall damage	$287.50	
Bedroom 4 wardrobe doors	$920.00	
Rubbish removal	$1,150.00	
Garden shed door repair	$345.00	
Lock/key replacement	$250.00	
Exemplary damages for unlawful use of premise- s40(2)(b) of the RTA	$900.00	
Lost rent for 16 weeks and 3 days at $680.00 per week	$11,171.43	
Filing fee reimbursement	$28.00	
Total award	**$22,078.93**	
Bond (already paid by Bond Centre to landlord)	$2,720.00	
Total payable by Tenant to Landlord	**$19,358.93**	

Reasons:

1. The landlord attended the hearing. 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 landlord has applied for rent arrears, compensation, exemplary damages, refund of the bond, and reimbursement of the filing fee following the end of the tenancy.

Did the tenant comply with their obligations at the end of the tenancy?

4. At the end of the tenancy the tenant must leave the premises reasonably clean and tidy, remove all rubbish, return all keys and security devices, and leave all chattels provided for their benefit. See section 40(1)(e)(ii)-(v) Residential Tenancies Act 1986. The tenant is required to replace worn out smoke alarm batteries during the tenancy. See section 40(1)(ca) Residential Tenancies Act 1986. The tenant must also replace standard light bulbs.
5. The landlord has provided evidence to the Tribunal that proves the tenant did not leave the premises reasonably clean and tidy and did not remove all rubbish. There were furnishings and belongings left inside and outside the premise.
6. The tenant did not return the keys and the locks had to be changed.
7. The amounts ordered are proved.

Is the tenant responsible for the damage to the premises?

8. 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 RTA.
9. 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.
10. 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.
11. 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.

12. 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.

13. 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.

14. The following damage was caused during the tenancy:

    a. Methamphetamine related damage (covered by insurance under three claims and three $1,250.00 excess amounts) to:

        i. Bedroom 1- carpets, underlay, curtains, wall damage to plasterboard, window that had westside etched into it, wardrobe doors were missing;

        ii. Bedroom 2- carpet, curtains, walls;

        iii. Bedroom 3- aluminium window and another window the tenant had removed and replaced with a big gap in the middle and wall damage to the plasterboard;

    b. Non methamphetamine related damage to:

        i. Kitchen blind missing at the end of the tenancy;

        ii. Dining room wall damage requiring repair and painting;

        iii. Laundry door had a broken glass pane and broken door handle;

        iv. Security lights in carpet were so damaged they had to be replaced and rewired;

        v. Bedroom 4- wardrobe doors so damaged they needed to be replaced;

        vi. Garage door shed had to be replaced due to damage.

15. The landlord has provided entry and exit photographs that prove this damage occurred during the tenancy and that the damage is more than fair wear and tear. The tenant has not disproved liability for the damage.

16. The amounts ordered are proved.

17. I have considered betterment and depreciation. The landlord should be returned to the position they would have been in had the tenant not breached their obligations and should not be better or worse off. In calculating depreciation, I

have considered the age and condition of the items at the start of the tenancy and their likely useful lifespan.

Methamphetamine contamination and associated costs

18. To make a successful claim for methamphetamine testing and/or remediation costs, the landlord must prove that the tenant caused or permitted the contamination, or that it was caused by someone at the premises with the tenant's consent. The landlord must also prove that, because of the contamination, the premises have been damaged or are not reasonably clean.

19. Section 138C Residential Tenancies Act 1986 provides for regulations to be made prescribing the maximum acceptable level for contaminants, but as yet no regulations have been made in relation to methamphetamine.

20. There are currently two sources of guidance on the issue of a safe level of methamphetamine contamination in residential premises. In June 2017 Standards New Zealand published NZS 8510:2017. The standard recommended a maximum contamination level of 1.5µg/100cm2 for high use areas where contamination has resulted from both consumption and manufacture. It recommended a higher level of 3.8µg/100cm2 for limited use areas.

21. In May 2018 Professor Sir Peter Gluckman, the then Prime Minister's Chief Science Advisor, released a report "Methamphetamine contamination in residential properties: Exposures, risk levels, and interpretation of standards". The report noted that there is a lack of scientific evidence to prove that low-level third-hand methamphetamine exposure poses a health risk to humans. It stated that guidelines should be proportionate to risk and that exposure to a level below 15µg/100cm2 was unlikely to have an adverse effect. It recommended retaining the level of 1.5µg/100cm2 where contamination resulted from manufacture, due to the risk posed by harmful chemicals used in the process.

22. The District Court has held that remediation should be carried out in accordance with the prevailing guidelines at the time (*Diamond Real Estate Limited v Allan* [2017] NZDC 833, Judge Kellar).

23. The Tribunal has generally applied the Gluckman recommendation. This approach was approved by the District Court in *Full Circle Real Estate Limited v Piper* [2019] NZDC 4947, where the Court stated (at para [36]):

> "The Tenancy Tribunal was in a difficult position. The best state of knowledge of risk to human health from methamphetamine contamination available to the adjudicator was the Gluckman Report. It would have been bold for the adjudicator to have ignored that report in favour of the New Zealand Standard given that the Gluckman report represents the current scientific knowledge on the risk to human health from methamphetamine contamination in dwellings."

24. The District Court took a similar approach in *Acme Realty Limited v Hogg and others* [2021] NZDC 3231, where the Court referred to the Full Circle case and

held that, because NZS 8510:2017 has not been adopted into law, the Tribunal was not bound to apply the 1.5µg standard.

25. More recently, in *Barfoot and Thompson Limited v Kāhui Tū Kaha Limited* [2021] NZTT Auckland 4276319, both parties presented scientific evidence at a hearing before the Tribunal. The Tribunal concluded that there was no new scientific research to change the conclusions reached in the Gluckman Report.

26. At the end of the tenancy the property manager got some itching when inside the premise and suspected methamphetamine. As such, methamphetamine testing was carried out as soon as the landlord was able to arrange it (30 July 2025) after getting possession back of the property.

27. The landlord had undertaken a comprehensive methamphetamine test of the premises, on 24 February 2021, just prior to the tenancy commencing. The test result came back showing that all rooms in the property had composite reading of <0.20µg (micrograms).

28. . The composite test carried out on 30 July 2025 a composite result of 27.0µg (micrograms) for the entire premise. The comparison of the entry and exit methamphetamine tests confirmed to the landlord that methamphetamine had been used in the premises during the tenant's tenancy, either by the tenant or someone at the premises with the tenant's consent.

29. Composite tests make it difficult to ascertain whether one or more of the samples tested together are at a level greater than the 15µg/100cm2 level in the Gluckman report. Pg. 28 of the Gluckman report, which looks at composite tests and notes:

> "Combining multiple samples taken throughout a dwelling into a single composite sample, as permitted in NZS 8510:2017, has limited value and cannot accurately reflect levels of risk, and depending on how the data are integrated can lead to quite misleading interpretation and false impressions of high exposure. This approach of composite analysis is promoted as a cost-effective option for initial screening, but it is in fact costly because it creates a bias towards detecting higher levels, and can falsely impose a requirement for further testing without identifying the areas (nor the actual levels) of potential contamination.
>
> Given the low health risk in properties that were not used as meth labs, if they are to be tested, the initial screening should not involve composite field testing that could produce a false positive result – that is, detecting a level of 1.5 µg/100 cm2 (or slightly above) from a composite field sample that adds the readings from all swabs together. Such field composite testing means that every sample can be below the standard, but when combined can raise the overall result, triggering another round of expensive testing".

30. The Gluckman report advises against composite testing on the basis that composite testing can result in a false positive "*that is, detecting a level of 1.5ug/100cm^2 (or slightly above) from a composite field sample that adds the readings from all swabs together. Such field composite testing means that every*

sample can be below the standard, but when combined can raise the overall result, triggering another round of expensive testing."

31. The landlord's insurer required a discrete methamphetamine test to be undertaken. This was carried out on 11 August 2025 and the detailed testing report disclosed methamphetamine contamination at the following levels:

    a. Kitchen: 14.7µg/100cm2;

    b. Lounge: 4.84µg/100cm2

    c. Bedroom 1: 0.42µg/100cm2

    d. Bedroom 2: 0.91µg/100cm2

    e. Bedroom 3 (outer wall): 2.50µg/100cm2

    f. Bedroom 3 (wardrobe): 1.37µg/100cm2

    g. Bathroom: 10.5µg/100cm2

    h. Basement corridor: 0.99µg/100cm2

    i. Bedroom 4 outer wall: 3.28µg/100cm2

    j. Bedroom 4 wardrobe: 5.03µg/100cm2

32. The landlord's evidence proved contamination in the premises were at a level greater than the 15µg/100cm2 level in the Gluckman report and well above the NZS 8510:2017 standard recommended maximum contamination levels of 1.5µg/100cm2 for high use areas (where contamination has resulted from both consumption and manufacture) and 3.8µg/100cm2 for limited use areas.

33. It follows that the landlord's claim for the insurance excesses that relate to the costs of decontamination, cleaning and damages must be granted.

34. It is an offence under the Misuse of Drugs Act 1975 for any person to have in their possession or consume any controlled drug and to allow any premises to be used for the commission of an offence under that Act and (sections 7 and 12). "Methamphetamine" is included as a controlled drug under Schedule 1 of the Misuse of Drugs Act.

35. It follows that the consumption of methamphetamine on premises amounts to the use of those premises for an unlawful purpose, in breach of section 40(2)(b) RTA. The tenant was therefore in breach of his obligations under the RTA.

36. The 30 July 2025 composite test results and the 11 August 2025 discrete test results support the landlord's claim for compensation for:

    a. The $1,250.00 insurance excess it has paid for its accepted claim for decontamination to be undertaken; and

    b. The $3,750.00 insurance excesses for the cleaning, composite testing, discrete testing, and methamphetamine related damage remediation.

37. It follows that the landlord's claim for these costs must be granted.

Is the tenant liable for exemplary damages?

38. [The landlord/s] claims the tenant has used the premises unlawfully, by consuming or allowing someone with his consent to consume methamphetamine in the premises.

39. It is an offence under the Misuse of Drugs Act 1975 for any person to have in their possession or consume any controlled drug and to allow any premises to be used for the commission of an offence under that Act and (sections 7 and 12). "Methamphetamine" is included as a controlled drug under Schedule 1 of the Misuse of Drugs Act.

40. A tenant must not use the premises or permit the premises to be used for an unlawful purpose. See section 40(2)(b) Residential Tenancies Act 1986.

41. Breaching this obligation is an unlawful act for which exemplary damages may be awarded up to a maximum of $1,800.00. See section 40(3A)(c) and Schedule 1A Residential Tenancies Act 1986.

42. The landlord has established in evidence that methamphetamine has been used in the rental premises during the tenancy. This is because a pre-tenancy methamphetamine comprehensive test was carried out by the landlord just prior to the tenant's tenancy commencing and the composite and discrete tests carried out at the end of the tenant's tenancy established the presence of methamphetamine in the home at a level that required decontamination and remediation. These levels were not present in the pre-tenancy testing.

43. I find the tenant has committed an unlawful act by consuming and/or allowing others to consume methamphetamine in the premises. I am satisfied that this was an intentionally unlawful act because it is common knowledge that the use of methamphetamine is illegal.

44. 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.

45. I consider an award of $900.00 exemplary damages justified in these circumstances (50% of the maximum). I make this finding on the following grounds:

    a. Methamphetamine was found throughout the house. The composite levels is relatively high.

b. The impact on the landlord cannot be understated. They have had to leave the premises vacant for 16 weeks and 3 days while they made an insurance claim and had further testing undertaken and ultimately had to have remediation work done to remove the methamphetamine contamination. They have suffered stress and the inconvenience of the remediation work, which has been lengthy and considerable. In addition, they have suffered loss of rent until re-testing after the premises had been decontaminated. Further, it is clearly in the public interests to discourage the use of methamphetamine in rental properties.

c. It is in the public interest to penalise tenants that use or allow rental premises to be used for unlawful purposes and acts as a deterrent to other tenants considering using or allowing methamphetamine to be smoked in rental premises.

Reimbursement of filing fee

46. 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.

47. Because [The applicant/s] has wholly succeeded with the claim I must reimburse the filing fee.

Name suppression

48. The landlord applies for non-publication of its name and identifying details.

49. 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.

50. The landlord has substantially succeeded in its proceedings. I do not consider publication is in the public interest or justified because of the landlord's conduct or any other circumstances of the case.

51. Non-publication is ordered.

M Pollak
18 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.