TENANCY TRIBUNAL AT REMOTE LOCATION | TE TARAIPIUNARA RETIHANGA

APPLICANT: [The applicant/s]

Tenant

RESPONDENT: [The respondent/s]

Landlord

TENANCY ADDRESS: [Tenancy address suppressed]

ORDER

1. The Tribunal orders dated 27 November 2025, 28 November 2025 are recalled and not enforceable.
2. An application for suppression has been made in this case, and the Tribunal orders suppression of the Tenant and Landlord's name and identifying details.
3. [The landlord/s] must pay [The tenant/s] $9,863.51 immediately, calculated as shown in the table below.

Description	**Landlord**	**Tenant**
Rent arrears to 1 May 2025	$2,312.00	
By consent: Water rates for 25/03/2025 – 23/04/2025	$92.49	
Compensation: Failure to appoint an agent in New Zealand (section 16A(1))		$500.00
Compensation: Overpaid rent		$10,588.00
Compensation: Failure to maintain gazebo		$1,500.00
Cleaning	$120.00	
Damaged hotplate	$100.00	
Holes in lounge walls	$100.00	
Total award	**$2,724.49**	**$12,588.00**
Net award		$9,863.51
Total payable by Landlord to Tenant		**$9,863.51**

Reasons:

1. Both parties attended the hearing, which took place over two days on 14 August 2025 and 10 November 2025. [The tenant] was represented by Amanda Elliott and [the landlord] was represented by her niece, [the landlord].
2. On 28 November 2025, I issued an order requiring the landlord to pay the tenant $7,551.51. On 1 December 2025, the tenant applied for a rehearing on the grounds that there was an error with the calculation of compensation for overpaid rent. I calculated this figure to be $8,976.00, but it should have been $11,288.00 (before a deduction of $700.00 for failure to mitigate loss). The tenant's application for rehearing was granted solely in respect of this issue. On 19 December 2025, the rehearing occurred.

Background

3. On 3 February 2010, [the tenant] entered into a tenancy with [the landlord]. [The landlord] lived in Australia with his wife, [the landlord], at the time. The tenancy was managed in New Zealand by Barfoot and Thompson from 3 February 2010 to early May 2022.
4. In early May 2022, [the landlord] cancelled Barfoot and Thompson's authority to act on his behalf. The tenancy continued without issue until [the landlord] death in early April 2023 when he was 96 years old.
5. [The landlord] inherited the premises by way of survivorship and the responsibility for managing the tenancy fell on her. [The landlord] was 82 years old at the time and still living in Australia.
6. [The landlord] increased the rent twice after [the landlord's] passing. The first increase was from $578.00 per week to $650.00 per week. The second increase was from $650.00 per week to $730.00 per week.
7. The tenancy ended on 1 May 2025 and the premises were subsequently sold on 24 June 2025.
8. [The tenant] claims the landlord's failure to appoint an agent in New Zealand meant the tenancy was not managed properly. [The tenant] also claims the rent increases were unlawful, and the gazebo was not adequately maintained during the tenancy. He seeks compensation and exemplary damages.
9. [The landlord] has filed a cross-application claiming [the tenant] owes rent arrears, is responsible for damaging the premises and did not leave the premises reasonably clean and tidy.

10. The issues I must determine are:

    a. Did the landlord fail to appoint an agent in New Zealand?

    b. Did the landlord comply with section 24 Residential Tenancies Act 1986 (RTA) when imposing rent increases?

    c. Did the landlord fail to maintain the gazebo in a reasonable state of repair?

    d. Does the tenant owe rent arrears?

    e. Did the tenant leave the premises reasonably clean and tidy?

    f. Is the tenant responsible for damage that occurred to the premises during the tenancy?

Standard of proof

11. Each party must prove their claim to the civil law standard of proof, on the balance of probabilities. This 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.

12. As noted by the District Court in *Katipo 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 of 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.

13. 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 at the hearing). I must weigh this evidence to decide what is more likely.

TENANT'S CLAIMS

Did the landlord fail to appoint an agent in New Zealand?

The law

14. A landlord who is out of New Zealand for longer than 21 consecutive days must ensure that they have an agent in New Zealand.[1]

15. Immediately after appointing an agent, the landlord must:[2]

    a. Notify the tenant of the agent's name, contact address, and address for service; and

    b. If a bond is held in respect of the tenancy, notify the chief executive in the approved form of those particulars.

Evidence and submissions of the parties

16. Both parties agree that Barfoot and Thompson were appointed as the landlord's agent in New Zealand from 3 February 2010 – early May 2022. The tenant claims no replacement was appointed after this date, despite the fact that the landlord continued to live in Australia.

17. The landlord accepts that an agent was not formally appointed to replace Barfoot and Thompson, but claims [the landlord], the landlord's niece, was available to help out from time to time. The landlord claims the tenancy was "self-managed" by the tenant, which was to his benefit, because he was not disturbed by regular inspections. The landlord claims the rent was reduced from $615.00 to $578.00 per week to reflect this.

Analysis

18. The landlord lived in Australia from early May 2022 to the end of the tenancy on 1 May 2025. They were out of New Zealand for more than 21 consecutive days.

19. I am not convinced that [the landlord] was an agent of the landlord. [The landlord] did not meet the tenant until December 2024 and was not in regular contact with them during the tenancy. She did not conduct regular inspections or organise routine maintenance on the property. [The landlord] might have obtained a quote for a heat pump, but that appears to be the extent of her involvement with the tenancy. [The landlord] contact address and address for

[1] Residential Tenancies Act 1986, section 16A(1).
[2] Residential Tenancies Act 1986, section 16A(4).

service were not provided to the tenant, nor was the Bond Centre notified that she had been appointed an agent of the landlord.

20. The landlord claims the tenancy was “self-managed.” Even if the parties had agreed that the tenant would manage the tenancy, which I am not convinced they did, this agreement would not be enforceable. The RTA imposes certain obligations on landlords. Any agreement that purports to allow a landlord not to comply with these obligations is of no effect, unless expressly permitted by the RTA or Tribunal.[3] The RTA does not allow landlords and tenants to agree that a landlord does not need to appoint an agent in New Zealand if they are out of the country for more than 21 consecutive days. I decline to permit any agreement for the following reasons:

    a. The Tribunal should be slow to permit agreements that override and are inconsistent with the legislation.

    b. In this case, the landlord lived outside of New Zealand permanently. It is more important to appoint an agent living in New Zealand in this circumstance, than if the landlord had lived in New Zealand and taken a long holiday. Having an agent in New Zealand allows for easier communication between the parties. They do not have to worry about time differences, internet connection or delays in postage. It also ensures that maintenance problems can be resolved quickly. The agent can also regularly complete inspections to ascertain the state of repair of the premises.

    c. Disagreements during and at the end of the tenancy are less likely to occur if an agent in New Zealand is regularly in contact with the tenant.

21. For these reasons, I find the landlord breached section 16A(1) RTA.

22. The tenant seeks compensation for this breach. I find $500.00 to be reasonable. In settling on this figure I have had regard to the nature, extent and effect of the breach as follows:

    a. The landlord permanently lived in Australia and there was no agent in New Zealand from early May 2022 – 1 May 2025. That is approximately 3 years, which is a long time.

    b. The landlord is elderly and struggles to use technology to communicate. The majority of communication appears to have been by telephone or letter sent by post. This means that the tenant was not able to quickly and effectively communicate with the landlord during the tenancy. Further, there is a lack of a written record about what was said between the parties, which has resulted in disagreements at the end.

[3] Residential Tenancies Act 1986, section 11

c. The lack of an agent between early May 2022 and 1 May 2025, means regular inspections have not occurred. Failure by the landlord to keep themselves appraised of the state of the premises has contributed towards disagreements at the end of the tenancy.

d. The age of the landlord. I accept that people in their 80's and 90's might not be as agile as people who are younger. To a certain degree, this explains the folly behind the landlord's failure to appoint an agent in New Zealand.

Should exemplary damages be ordered?

The law

23. Breach of section 16A(1) RTA is an unlawful act, for which exemplary damages up to a maximum of $1,500.00 may be ordered.[4]

24. A tenant cannot apply for exemplary damages 12 months after the date of the commission of the unlawful act.[5] The unlawful act occurred around early May 2022 and the tenant filed their application on 18 June 2025, which is more than 12 months later. Therefore, I cannot order exemplary damages.

Did the landlord comply with section 24 RTA when imposing rent increases?

The law

25. A landlord may increase the rent provided all of the following conditions are complied with:[6]

    a. The landlord must give the tenant notice in writing of the increase.

    b. The notice must specify the amount of the increased rent and the day upon which the increased rent shall become payable.

    c. The day upon which the increased rent becomes payable must be no less than 60 days from the date the notice is given.

    d. The rent must not be increased within 12 months after the date on which the last increase took effect.

Evidence and submissions of the parties

26. The tenant claims the landlord imposed two invalid rent increases. The first increase occurred on 11 May 2023 from $578.00 to $650.00. The tenant

[4] Residential Tenancies Act 1986, section 16A(6)(a) and Schedule 1A.
[5] Residential Tenancies Act 1986, section 109(2)(b).
[6] Residential Tenancies Act 1986, section 24.

claims they were advised by telephone sometime in early April 2023. The second increase occurred on 4 April 2024 from $650.00 to $730.00. The tenant claims they were advised by telephone sometime in March 2024.

27. The tenant claims the rent increases do not comply with the requirements in section 24 RTA and the Tribunal cannot retrospectively make them compliant. Therefore, the tenant seeks a refund of all overpaid rent, which totals $11,288.00.

28. The landlord accepts that the requirements in section 24 were not complied with however, claims the tenant should only be refunded $1,900.00. This represents the amount of rent paid by the tenant during the period where the increases should not have taken effect. Whilst the strict requirements of section 24 were not complied with, the landlord claims they discussed the proposed increases with the tenant each time and the tenant agreed to pay them. Further, the landlord claims the tenant had a flatmate, which means they did not bear the cost of the increases alone. The landlord also claims that the tenant paid below market rent for the majority of the tenancy and even the increased rent was below market rent.

Analysis

29. The landlord increased the rent twice and failed to adhere to the requirements in section 24 RTA each time. Notice of the rent increases were communicated to the tenant over the telephone, not in writing. The tenant was not given 60 days' notice of the increases and were only given approximately one month. The second increase also occurred within 12 months of the first increase.

30. In *Landlord v Tenant* [2025] NZTT 5044469, the Tribunal held:

> Section 24 of the RTA should be strictly interpreted, as it sets the mandatory conditions that a landlord must comply with before rent may be increased. A notice that does not comply with those requirements is invalid and has no legal effect. The rent does not therefore increase, and the tenant is only required to pay the rent at the previous rate.

31. The general approach of the Tribunal in cases where rent increases do not comply with the requirements in section 24 RTA is to order a full refund of all overpaid rent.[7]

32. The starting point in this case therefore, is that the tenant is entitled to recover the full amount of overpaid rent, namely $11,288.00. That is not the end of the

[7] See for example *Tenant v Ron Quinn* [2025] NZTT 5341263; *Mary Tiriara Elisaia v Matthew Ransfield, Sharon van Gulik* [2025] NZTT 5045049, 4948873; *Tenant v Happiness Family Trust* [2025] NZTT 5093489, 5131470.

matter however, because a tenant also has a duty to mitigate their loss where a landlord breaches section 24 RTA.[8] This might look like the tenant not paying the increased rent and continuing to pay the old rate or advising the landlord that the increase is invalid. If the landlord refuses to acknowledge that the increase is invalid, the tenant might file an application with the Tribunal. Of course, I bear in mind the fact that section 24 is a landlord obligation. Whilst tenants might reasonably be expected to know their own obligations under the RTA, the Tribunal does not expect them to have detailed knowledge of all of its provisions, especially those relating to landlords. I also accept the tenant's submission that tenants might be hesitant to dispute a rent increase for fear of retaliation from the landlord. Landlords are not allowed to issue termination notices that are retaliatory however, it can and does happen. Unless the tenant applies to the Tribunal within 28 days of receiving a retaliatory termination notice, it is enforceable.[9]

33. Also relevant is the fact that the Tribunal is required to determine each dispute according to the general principles of the law, and overall merits and justice of the case. It is not bound to give effect to strict legal rights or obligations.[10]

34. The landlord claims that the tenant paid below market rent for the majority of the tenancy however, insufficient evidence was provided to support this. No evidence was submitted about the market rent from 2010 – 2022. The landlord submitted a desktop valuation for the premises taken in 2023. It estimates the market rent to be $825.00 - $875.00 per week however, I do not consider this valuation to be accurate or reliable. It is a general valuation that has not been undertaken specifically for the property. It does not take into account the fact that the interior is dated or that the premises do not comply with the healthy homes standards.

35. The landlord submitted a second appraisal completed in August 2025. This appraisal was specifically tailored to the property and estimates the market rent to be $800.00 - $825.00 per week. It was taken four months after the tenancy ended. Minor work was completed to the property at the end of the tenancy to prepare it for sale. Further, the valuation is based on the presumption that the premises comply with the healthy homes standards, which they do not. For these reasons, I also find this valuation to be unreliable.

36. The rent decreased from $650.00 per week to $578.00 per week on 25 April 2022 however, the tenant assumed responsibility for paying the fixed wastewater fee at this point. This is not a cost a tenant is required to pay.[11]

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[8] Residential Tenancies Act 1986, section 49.
[9] Residential Tenancies Act 1986, section 54.
[10] Residential Tenancies Act 1986, section 85.
[11] Residential Tenancies Act 1986, section 39(3).

The tenant continued to pay the fixed wastewater fee until the end of the tenancy when the other rent increases were imposed. Although the overall rent increase across the tenancy 15 year tenancy was small, the increases that were imposed in 2023 and 2024 were substantial. The Tribunal usually sees rent increases between $20.00 - $50.00 per week, whereas the rent increases imposed were for $72.00 and $80.00 in this case.

37. I do not consider the fact that the tenant had a flatmate to be of any significance. They were allowed to have one and this does not change the fact that the increases were quite substantial, occurred within a shot period of time and without proper notice being given.

38. Considering all of these matters, I find a reduction of $700.00 to the total amount sought by the tenant to be reasonable. This amount reflects the fact that the starting point is a return of all overpaid rent by the tenant. Balanced against this is the fact that the tenant does not appear to have done much to mitigate their loss, although the Tribunal does not impose high expectations on tenants in these circumstances. Additionally, the tenant continued to pay the fixed wastewater fee when the increases were imposed and the landlord has not proven that the rent was below market rent for the majority of the tenancy.

39. The tenant's claim for compensation is granted for $10,588.00.

Did the landlord fail to maintain the gazebo in a reasonable state of repair?

The law

40. Section 45(1)(b) RTA requires a landlord to provide and maintain the premises in a reasonable state of repair, having regard to the age and character of the premises and the period during which they are likely to remain habitable and available for residential purposes.

41. A landlord's obligations under section 45(1)(b) RTA are to investigate and repair a defect brought to their attention within a timeframe that is reasonable in the circumstances. As to what is reasonable will depend upon the gravity of the problem and objective attempts made by the landlord to investigate and remedy the problem.[12]

42. 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.

43. A tenant may give a landlord 14 days' notice to remedy a breach of the RTA 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.[13] However, notice

[12] *Collins v Professionals Hutt City Ltd* DC Wellington CIV-2009-085-1431, 24 February 2019 at [15].
[13] *Brough v Housing NZ Ltd* NZTT 1848/1, 27 May 2002 at [13].

from the tenant is not required if the landlord knew of the need to repair or the need for repair was apparent from observation.[14]

44. There is a failure to repair if the repair is ineffective, non-compliant or unsafe.[15]

Evidence and submissions of the parties

45. The tenant claims the landlord failed to maintain the outdoor gazebo in a reasonable state of repair. They claim it was in good condition at the beginning of the tenancy but breaking down towards the end. The tenant claims the seats and backboards were rotting and the roof eventually caved in. They say they told the landlord about it approximately 3 years before the tenancy ended and a tidy up was completed, but more work needed to be done. The tenant claims when they brought it up with the landlord again, the landlord said they weren't going to spend any more money on it.

46. The landlord accepts the tenant raised the state of the gazebo with them. The landlord claims the roof only caved in after a storm around February/March 2025, which was very close to the end of the tenancy. The landlord accepts the gazebo had deteriorated over the years, but claims it was still usable before the storm.

Analysis

47. The parties agree that the roof of the gazebo caved in around February/March 2025, which is approximately 1 – 2 months before the tenancy ended. The disagreement lies in the state of the gazebo within the last couple of years of the tenancy. The landlord claims it was usable and submitted photographs taken in 2020, 2021 and 2022 by Barfoot and Thompson. These photographs show the gazebo from a distance, except for one photograph taken in 2020 from inside the gazebo however, the lighting is dark, and it is hard to see. None of the photographs clearly show the state of the inside of the gazebo. In all of the photographs, the gazebo appears old. The wood has faded and some of the shingles on the roof appear loose. It was at least 10 – 12 years old by 2020, 2021 and 2022.

48. The landlord also submitted photographs from the internet taken in July 2022, March 2024 and June 2024. These photographs are also taken at a distance or birds eye view. The outside of the gazebo is visible, but none of the photographs clearly show the inside. The outside of the gazebo appears the same as it does in the inspection photographs of 2020, 2021 and 2022, namely old and showing signs of wear and tear.

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[14] *Barfoot & Thompson Ltd v Case* DC Auckland CIV-2005-004-1762, 7 November 2007 at [4].
[15] *Staife v Aegis Trust* [2016] NZTT Auckland 3314 at [31].

49. The tenant claims the seats and backboards were beginning to rot. The landlord disagrees with this however, the difficulty for the landlord is that they have no firsthand knowledge of the state of the gazebo from 2020 – 1 May 2025. The landlord did not personally visit the premises during this time. They rely on the photographs taken by Barfoot and Thompson however, these photographs do not show the inside of the gazebo. The same can be said of the internet photographs. The landlord did not attend any inspections personally, nor did they call the former property manager who inspected the premises as a witness to give evidence about the state of the inside of the gazebo. All of these factors influence the reliability and accuracy of the landlord's evidence about the state of the gazebo.

50. In contrast, the tenant lived at the premises for approximately 15 years. They have firsthand knowledge of the state of the gazebo, because they saw and used it regularly. This means that I consider their evidence about the state of the gazebo, particularly the inside, to be more reliable than the landlord's. The age of the gazebo supports the tenant's claim that it was beginning to fall apart. It was at least 10 – 15 years old by the end of the tenancy. Some of the shingles on the roof appear loose, which further supports the tenant's claim that it needed maintenance. The premises are directly opposite the beach and most likely attract sea spray, which is corrosive over time. This further supports the tenant's claim that the gazebo was most likely in a state of disrepair.

51. On the balance of probabilities, I am convinced that the gazebo, particularly the inside, was in a state of disrepair towards the end of the tenancy and needed maintenance. The tenant alerted the landlord to this approximately 2 – 3 years before the end of the tenancy however, insufficient steps were taken by the landlord to address the problem. On the balance of probabilities, I find the landlord failed to maintain the gazebo in a reasonable state of repair.

52. The tenant seeks compensation for this breach. I find $1,500.00 to be reasonable. This equates to approximately $10.00 - $15.00 per week over a 2 – 3 year period. In settling on this figure, I have had regard to the importance the tenant attached to the gazebo. It was a key feature of the premises for them and an area where they enjoyed entertaining guests. I have also had regard to the fact that it is a small area of the premises overall.

Should exemplary damages be ordered?

53. Failure to maintain the premises in a reasonable state of repair is an unlawful act, for which exemplary damages up to a maximum of $7,200.00 may be ordered.[16]

54. I find the landlord acted intentionally in failing to maintain the gazebo. They accept the tenant brought the matter to their attention however, insufficient repairs were completed.

55. I do not consider it just to order exemplary damages for the following reasons:

    a. The amount of compensation is fair reimbursement for the tenant's loss of amenity.

    b. The amount of compensation is sufficient to most likely act as a deterrent to this and other landlords from delaying maintenance.

    c. The landlord has not failed to maintain any other areas of the premises.

    d. The gazebo was a small part of the premises, although I accept it played an important role to the tenant in the use and enjoyment of the property.

LANDLORD'S CLAIMS

Does the tenant owe rent arrears?

56. The landlord's rent summary records the tenant owes 5 weeks' worth of rent however, it is incomplete. The tenant accepts they did not pay rent for 4 weeks and the landlord amended their claim at the hearing to recover 4 weeks in rent arrears.

57. The landlord claims the tenant owes $2,920.00, which equates to four weeks rent. The landlord's calculation is based upon weekly rent of $730.00 however, the rent increases were invalid and of no effect. This means the landlord is only able to recover four weeks rent at $578.00.

58. The landlord's claim for rent arrears is granted for $2,312.00.

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

The law

59. At the end of the tenancy, the tenant must leave the premises reasonably clean and tidy.[17]

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[16] Residential Tenancies Act 1986, section 45(1A) and Schedule 1A.
[17] Residential Tenancies Act 1986, section 40(1)(e)(iii).

60. “Reasonably” clean means clean to the standard an average, reasonable bystander would consider reasonable.[18] It does not mean commercially clean,[19] spotless[20] or to a hotel or motel standard.[21] The better the premises and the higher the rent payable, the higher the standard expected.[22]

Evidence and submissions of the parties

61. The landlord claims the tenant did not leave the premises reasonably clean and tidy. The landlord claims the carpets were dirty, walls were not wiped down, cobwebs were not swept away and mould was not cleaned. The landlord describes the cleaning to the kitchen and bathroom as being mediocre, but not to the level where the premises could be marketed for sale.
62. The landlord seeks $700.00 for general cleaning and $475.00 for carpet cleaning.
63. The tenant claims they vacuumed the premises and did their best to leave them reasonably clean and tidy. Any uncleanliness is a result of the age of the premises.

Analysis

64. The landlord submitted a handful of photographs taken at the end of the tenancy. No personal belongings or rubbish were left by the tenant. The carpets appear to have been vacuumed, except for one wardrobe, where dust and dirt are present. Mould is present on one of the wardrobe doors and the laundry ceiling. These are the only areas of the premises I find the tenant did not leave reasonably clean and tidy. Insufficient photographs of the rest of the premises were submitted to convince me that the rest of the house was not reasonably clean and tidy.
65. The landlord’s claim for cleaning is granted for $120.00, which reasonably reflects the extent of the tenant’s breach.
66. The carpet was at least 15 years old by the end of the tenancy and most likely at the end of its estimated useful lifespan.[23] Overtime, it reasonably foreseeable that carpet may incur some marks as a result of everyday use, especially light carpet like this one. This was a 15 year tenancy and the carpet has endured a lot of use over time. Some marks on the carpet are present

[18] *Housing New Zealand v Holloway* NZTT Auckland TT215/93, 8 February 1993 at [8].
[19] *Mills v Kiwi Property Care Ltd* NZTT Auckland TT215/93, 8 February 1993 at [8].
[20] *Chang v Driscoll* NZTT Christchurch TT2043/98, 21 July 1998 at [6].
[21] *Richards v Scully* NZTT Christchurch TT858/97, 8 May 1997 at [3]; *Chang v Driscoll* NZTT Christchurch TT2043/98, 21 July 1998 at [6].
[22] *Westwood v Western* [1994] DCR 759 at [770].
[23] Inland Revenue General Depreciation Rates: IR265.

however, I consider this to most likely be the result of fair wear and tear. A tenant is not responsible for fair wear and tear.[24]

67. No photographs from the beginning of the tenancy were submitted showing the state of the carpet. The only photographs that were submitted were taken in 2020, 2021 and 2022 during inspections. Furniture is on top of the carpet and I am not able to clearly see its overall state. This means I am also not convinced on the balance of probabilities that any staining occurred during the tenancy.

68. For these reasons, the landlord's claim for carpet cleaning is dismissed.

Is the tenant responsible for damage that occurred to the premises during the tenancy?

The law

69. 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.[25]

70. When considering a claim for compensation for damage, the Tribunal has a discretion to award either the full cost of replacement or diminution in value. In determining what option to award, the overarching principle is one of reasonableness.[26]

71. The landlord claims the tenant is responsible for damaging the kitchen hotplate and walls throughout the premises. They seek compensation for the following amounts:

    a. Hotplate: $950.00

    b. Walls: $3,392.50

Hotplate

72. The tenant accepts the hotplate was damaged during the tenancy, but disputes the amount sought by the landlord. The photographs of the hotplate show it has a large crack in it.

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[24] Residential Tenancies Act 1986, section 49A(2).
[25] Residential Tenancies Act 1986, section 40(2)(a), 41 and 49B.
[26] *Ruxley Electronics v Forsyth* [1996] 1 AC 344.

73. The landlord did not replace the hotplate. They submitted a quote for $1,509.00 to replace it and seek $950.00 however, this is not a cost they have actually incurred.

74. The landlord claims the broken hotplate decreased the value of the premises, which were subsequently sold. The premises are dated on the inside and I do not think it can be said that the broken hotplate significantly or even moderately affected the purchase price. The premises were marketed for sale as “the ultimate waterfront do up” and the landlord gave evidence it was sold in line with the registered valuation. The landlord also gave evidence that the hob was approximately 30 years old. It was most likely at the very end of its estimated useful lifespan.

75. Considering these factors, I order the tenant to pay $100.00 for the broken hotplate.

Walls

76. The landlord claims the tenant is responsible for a number of holes in the walls and peeling wallpaper throughout the premises. The tenant accepts they made some holes in the walls in the lounge to fit a projector, but claims they had permission from the landlord to do so. The tenant claims all of the other holes or peeling wallpaper were present at the beginning of the tenancy.

77. The tenant claims they sought permission from [the landlord] to install a projector and make some holes in the lounge walls for the wiring. [The landlord] has passed away and because all communication was mostly over the telephone, there is no written record about what was said. This makes it difficult for the tenant to prove they had permission and difficult for the landlord to prove no permission was ever given.

78. The Tribunal must exercise its discretion in a way that promotes the fair and expeditious resolution of disputes. In the circumstances of this case, I find the most fair and expeditious way to resolve this dispute is one which requires the tenant to pay the landlord $100.00. In settling on this figure, I have had regard to the evidential difficulties posed by the death of [the landlord]. I have also considered the size of the holes. They are small, but there are a few of them. The landlord has not incurred a cost to repair the holes, which I have also considered.

79. Regarding the other areas of the walls, the landlord did not submit photographs of the premises taken at the beginning of the tenancy. The tenant was not the first person to live in the premises and the premises were not newly built before the tenancy began. In the absence of photographs taken at the beginning of the tenancy to show the state of the walls, I am not convinced

on the balance of probabilities that the holes or peeling wallpaper in other areas of the house occurring during the tenancy.

80. For this reason, the landlord's claim for compensation of $3,392.50 is dismissed.

Filing fee and name suppression

81. Both parties have been substantially successful with their claim. Therefore, I do not order either party to reimburse the filing fee.

82. The tenant's written application included a request for name suppression. Because they have been substantially successful with their claim, I must grant their request.

83. The landlord's written application did not include a request for name suppression. Therefore, in the order dated 28 November 2025, I did not grant them name suppression. At the rehearing, the landlord requested name suppression. They advised they were not aware of what this was at the first hearing and wanted to seek it now. The tenant did not oppose the landlord seeking name suppression at the rehearing and I allowed the landlord to do so.

84. Because the landlord has been substantially successful with their claim, I must grant their request for name suppression.

L Ryken
19 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.