TENANCY TRIBUNAL AT REMOTE LOCATION | TE TARAIPIUNARA RETIHANGA

APPLICANT: [The applicant/s]

Landlord

RESPONDENT: Dahvine Sinsemellia Heavenlee Matenga

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. Dahvine Sinsemellia Heavenlee Matenga must pay [The landlord/s] $2,046.08 immediately, calculated as shown in table below.

Description	**Landlord**	**Tenant**
Fire alarm call out and cleaning fee	$180.55	
Replacement of fire door	$1,837.53	
Filing fee reimbursement	$28.00	
Total award	**$2,046.08**	
Total payable by Tenant to Landlord	**$2,046.08**	

3. The balance of the claim is dismissed.

Reasons:

1. The landlord attended the hearing by video call.

2. The tenant was telephoned on the phone number provided but the phone call went unanswered. I am satisfied the tenant was properly served with notice of the hearing. The hearing proceeded in her absence.
3. The landlord has applied for:
    a. termination of the tenancy for breach of the tenant's obligations.
    b. compensation,
    c. reimbursement of the filing fee, and
    d. name suppression

Relevant legal considerations

4. The relevant law that applies is found in the Residential Tenancies Act 1986 (RTA).
5. With any claim before the Tenancy Tribunal, the Tribunal applies the usual civil law standards and expectations That includes a requirement that the applicant, establish their claims on the balance of probabilities. The balance of probabilities means more likely than un-likely, or in mathematical terms, has a fractionally more than 50% likelihood.
6. The Tribunal does not need to be certain or very sure about any claim, only that what is claimed is likely. This obligation carried by the applicant is referred to as the "burden of proof". Independent witnesses, corroborating documents and photographs are an important part of discharging this burden.
7. 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."

Termination and rent arrears

8. The Tribunal may terminate a tenancy for breach where, due to the nature or extent of the breach, it would be inequitable to refuse to terminate. [2]

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[1] *Kaipo v Clarke & McCarthy* (DC) TT233/02
[2] See section 56(1) Residential Tenancies Act 1986.

9. Where the breach is capable of remedy the landlord must first serve a notice on the tenant requiring them to remedy the breach within at least 14 days and establish that the tenant has failed to do so.

10. The tenant has breached their obligations by failing to pay rent when it is due and payable.

11. The landlord served a 14-day notice on the tenant for rent arrears on 25 August 2025. The expiry date was 9 September 2025. On my review of the rent summary, on 9 September 2025 the tenant had paid the arrears and current rent and was in credit. I consider the tenant remedied the breach. In addition, by the hearing date the tenant had a small rent credit. The tenant had consistently paid rent; however, it is paid late, as it is paid on a Monday after the Thursday it is due. This arrangement has been in place for over 12 months, without the landlord bringing a claim to the Tribunal.

12. I note that the landlord said they have served numerous 14-day notices on the tenant, and these were emailed during the hearing. I have been unable to open these files for consideration. The registry contacted the property manager to obtain PDF copies of the 14-day notices and these have not been received at the time of issuing this decision.

13. Because the tenant remedied the breach, the application for termination is dismissed.

14. As at the hearing date the tenant did not owe rent arrears, therefore the claim for rent arrears is dismissed.

Damage

15. A tenant must not intentionally or carelessly cause damage or permit any other person to damage the premises.[3] Where a landlord is claiming compensation for damage 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.

16. Tenants are liable for the actions of people at the premises with their permission.[4]

17. Fair wear and tear can be described as damage which might reasonably be expected to naturally occur over time, such as the deterioration or gradual wear occurring with everyday use.[5]

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[3] See s 40 (2)(a) of the RTA.
[4] See sections 40(2)(a), 41 and 49B RTA.
[5] See *Taylor v Webb* [1937] 2KB 283 (CA).

18. 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).[6]

19. 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).[7] Where insurance money is irrecoverable because of the tenant's conduct, the property is treated as if it is not insured against the damage.[8]

20. 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.[9]

21. 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.[10]

22. In assessing a claim for compensation, I must take into account 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 must take into account the age and condition of the items at the start of the tenancy and their likely useful lifespan.

23. The following damage was caused during the tenancy:

    a. The fire door was damaged and replaced with a door that was not a fire door. The landlord had to replace the door to ensure compliance with the Building WOF. The original damage to the door appeared intentional.

    b. The tenant sanded inside the premises, activating the smoke alarm. A call out and cleaning fee was incurred. I consider this to be damage to the smoke alarm for which the landlord should be reimbursed.

24. The damage is more than fair wear and tear, and the tenant has not disproved liability for the damage.

25. The amounts ordered are proved with oral evidence, invoices and photographs of the damaged door.

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[6] See section 49B(3)(a) RTA.
[7] See section 49B(3)(b) RTA.
[8] See section 49B(3A)(a) RTA.
[9] See section 49B(1) RTA.
[10] See *Guo v Korck* [2019] NZHC 1541.

Filing Fee

26. As the landlord has succeeded with the claim, I have reimbursed the filing fee.[11]

Suppression

27. The landlord applied for name suppression and as the landlord is substantially successful with the claim I have ordered suppression of the landlord's name and identifying details. [12]

N Bradley
22 December 2025

[11] See section 102 (4)(b) of the RTA.
[12] See section 95A RTA

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.