[2025] NZTT 5357141

TENANCY TRIBUNAL AT MANUKAU | TE TARAIPIUNARA RETIHANGA KI MANUKAU

APPLICANT: [The applicant]

Tenant

RESPONDENT: Ivan Sevic

Landlord

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. Ivan Sevic must pay [The tenant] $2,778.00 immediately, calculated as shown in table below (the debt"):

Description	**Landlord**	**Tenant**
Compensation: Overpayment of rent not repaid to tenant		$2,250.00
General damages- s31 of the RTA breach		$500.00
Filing fee reimbursement		$28.00
Total award		**$2,778.00**
Total payable by Landlord to Tenant		**$2,778.00**

3. The landlord must pay the debt to the tenant's bank account [bank account number suppressed].

Reasons:

1. The tenant attended the hearing. The landlord did not.
2. I am satisfied that the landlord had received proper notice of the hearing time, date and place and chose not to attend.

Has there been an overpayment of rent that has not been repaid to the tenant?

3. The tenancy ended on 9 June 2025. MSD, in error, continued to pay the rent for three weeks beyond the end of the tenancy.
4. Section 31 of the RTA "Apportionment of rent" confirms:

   (1) The rent payable under a tenancy agreement shall accrue from day to day.

   (2) *Upon termination of the tenancy, the rent shall be apportioned accordingly, and the appropriate amount shall be payable or recoverable forthwith*.
5. The evidence proves that both MSD and the tenant informed the landlord about this overpayment of rent and required him to refund it immediately to MSD as he had no legal entitled to the money.
6. On 4 July 2025, MSD emailed the landlord requesting the overpayment be returned to it. The landlord acknowledged receipt of this email in an email, dated 9 July 2025
7. MSD followed the landlord up on 11 July 2025 as it had not received payment.
8. On 22 July 2025, MSD emailed the landlord requesting the overpayment be returned directly to the tenant, as it declared the overpayment recovery had become a matter between MSD and the tenant due to the landlord refusing to repay the overpayment to MSD directly in a timely manner. It required the tenant to recover the overpayment from the landlord herself and put her on a repayment plan to pay off the overpayment in instalments as she does not have the financial ability to pay $2,250.00 in a lump sum.
9. On 16 December 2025, the landlord paid $2,135.00 directly to MSD despite the clear instructions given to him by MSD in its 22 July 2025 email as outlined below:

Hello Ivan,

I have further consulted our management on the matter of wrongful payment.

The current update in the matter is that we cannot offer any payment plan neither we will now be able to accept the payment.

By right, you will need to send the payment directly to Mehri as soon as possible.

Any issues related to the matter should be referred on to Tenancy Tribunal court and resolved through them.

Kind Regards

Seth Bawa – Housing Broker

10. The landlord unilaterally deducted the $115.00 from the overpayment amount without having any legal basis for doing so.

11. The tenant has been repaying the $2,250.00 overpayment to MSD in instalments since the end of July 2025, almost 5 months. This has put the tenant under undue financial duress as she is a solo mother who works part time under a contract for service and does not get paid when she does not work. She supports two children and gets limited MSD support. The landlord refusing to repay the overpayment in July 2025 to MSD has put her under considerable stress.

12. I am satisfied the landlord owes the tenant $2,250.00 and order that he pays this overpayment to her immediately. She is repaying the overpayment to MSD.

13. The landlord is responsible for recovering the $2,135.00 he had paid in error on 16 December 2025 to MSD, after he was clearly informed by MSD on 22 July 2025 that he owed the money to the tenant, and it could no longer accept payment of that overpayment.

14. I also find that the landlord has breached its s31 of the RTA obligations to the tenant and in doing so has put her under extreme financial duress, stress and inconvenience. I award the tenant general damages of $500.00 to compensate her for the stress and inconvenience and financial duress she has suffered because of the landlord's breach.

15. I note that general damages are non-economic compensation the recognise subjective losses like pain, suffering, emotional distress, and loss of enjoyment of life resulting from an injury or wrong.

Is the tenant liable for the landlord's $115.00 invoice?

16. On 14 May 2025, the Tribunal made an order relating to this tenancy. The Order discounts the water rates arrears owing by the tenant because of a toilet leak that was not addressed in a reasonable timeframe in all the circumstances. This led to increased water usage by the tenant and water consumption charges higher than what the tenant would have used, but for the leak.

17. In the 14 May 2025 Order at paragraph [44], the Tribunal records that "*the landlord gave evidence that the tenant contacted them again shortly thereafter complaining about a leaking toilet. The landlord visited the address and investigated the issue but did not find any leak. Frustrated at the fact that the landlord believed the tenant was complaining about a defect that did not exist, the landlord sent the tenant an invoice for $115.00 for their time and attendance*".

18. The 14 May 2025 Order records the tenant gave evidence that proves on the balance of probabilities that the toilet was leaking for some months. At

paragraphs [70] and [71] the Order records "*the video of the toilet taken on 27 February 2024 casts doubt on whether the landlord actually fixed the leaking toilet as they claim they did. Whilst the landlord might be very experienced in building and property maintenance, there is specialist knowledge and expertise that a plumber has that the landlord does not. I consider it reasonably possible that the landlord might not have correctly identified and fixed the problem with the leaking toilet, hence water was still running when it was not being used in the video dated 27 February 2024. 71. On the balance of probabilities, I am convinced that the toilet was leaking around the time that the invoice dated 12 February 2024 was issued. The tenant is not liable to pay the full amount contained in this invoice*".

19. The 14 May 2025 Order also record a finding that the toilet was leaking during the period the water rates invoices, dated 10 April 2024, 13 May 2024 and 12 June 2024, relate to.

20. The landlord issued the tenant a further invoice, dated 11 March 2024, for $115.00 for his time and attendance to investigate the toilet leak. The invoice records that the cistern was working "properly" and the "outflow was all good". This invoice was issued in retaliation for the tenant continuing to raise issues about the leaking toilet that the landlord did not believe existed. The landlord made it clear at the prior hearing that he believed the tenant was complaining about a defect that did not exist.

21. The landlord has tried to deduct the $115.00 for this invoice from the tenant's bond. The tenant wrote on the bond refund form "I am formally disputing the $115.00 charge. The landlord is not a licenced plumber and therefore is not qualified to issue an invoice for plumbing work carried out on their own property". The Bond Centre did not make the deduction, so the landlord has tried to deduct this amount from the overpayment made to him in error by the Ministry of Social Development (MSD).

22. Under section 45(1)(b) of the RTA, the landlord has an obligation to investigate and repair a defect brought to its attention, within a timeframe that is reasonable in the circumstances. In *Collins v Professionals Hutt City Ltd*, the Wellington District Court held "what that time is depends not only on the gravity of the problem but also on the objective evidence of the attempts made by the landlord to investigate, and put right, whatever the problem might be".[1]

23. There is also failure to repair if the repair is ineffective, non-complaint or unsafe[2].

24. As such, the landlord had an obligation to go to the premise to investigate the ongoing toilet leak or send a qualified contractor to investigate the ongoing leak,

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[1] *Collins v Professionals Hutt City Ltd* DC Wellington CIV-2009-085-1431, 24 February 2019 at [15].
[5] *Staife v Aegis Trust* [2016] NZTT Auckland 3314 at [31].

even though he believed it had already been remediated. The evidence suggests the repair was ineffective, but the landlord failed to recognise this defect in the repair during his visit to the premise on 11 March 2024. The landlord did not have the legal right to charge the tenant for the cost of investigating the toilet leak, regardless of whether the leak had been fully remediated or not, and no legal right to make a deduction for this cost from the overpayment of rent he received from MSD.

25. I find that the tenant is not liable for payment of the $115.00 invoice A853434 issued by Sevic Homes Ltd.

Reimbursement of filing fee

26. 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.

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

Name Suppression

28. The tenant applies for non-publication of her name and identifying details.

29. 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.

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

31. Non-publication is ordered.

M Pollak
23 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.