[2026] NZTT 5371383

TENANCY TRIBUNAL AT PUKEKOHE | TE TARAIPIUNARA RETIHANGA KI PUKEKOHE

APPLICANT: Thomas Ewing, Weini Fu-Winslow

Landlord

RESPONDENT: Georgia Maree Rua Collard

Tenant

TENANCY ADDRESS: 1011 Paerata Road, Paerata, RD 1, Pukekohe 2676

ORDER

1. Georgia Maree Rua Collard must pay Thomas Ewing and Weini Fu-Winslow $2,414.25 immediately, calculated as shown in table below.

Description	**Landlord**	**Tenant**
Replace furnishings: Carpet and lino excess	$2,750.00	
Window repairs	$688.85	
Replace furnishings: heatpump remote	$112.40	
Rubbish removal	$500.00	
Cleaning	$675.00	
Lock/key replacement	$60.00	
Filing fee reimbursement	$28.00	
Total award	**$4,814.25**	
Bond	$2,400.00	
Total payable by Tenant to Landlord	**$2,414.25**	

Reasons:

1. The landlord attended the hearing held on the 27 January. The tenants did not attend.
2. After the hearing ended, I allowed the landlord time to submit further evidence such as photographs of the move in, the water rates invoices and further

photographs that the landlord had of the condition of the carpet at the end of the tenancy. I did that as the landlord said she had not thought to bring those photographs to the hearing. That same day the landlord sent in the move in photographs and said in her cover email; "*I will send subsequent emails with the damage caused and photos from the final inspection day*" The registry has followed up with the landlord to explain that we have not received any further emails or photographs from the landlord. The landlord has not sent in the further documents. I have completed the decision on the evidence that has been submitted.

3. I confirm that before I have completed the decision, I have reviewed all of the evidence and my notes taken during the hearing.

Background.

4. This was a tenancy of a 3-bedroom house on a large section. The tenant lived in the property just over two years. The tenancy ended after the landlord gave a 90 day notice to end the tenancy.

5. The landlord says that the property was inspected every 3 months.

6. The final inspection was carried out on the 13 September, 3 days after the tenancy ended. The tenant and the landlords were both present. The landlord says that the tenant accepted that the house was not reasonably clean and tidy and they there was rubbish that required removal, the landlord said that the tenant also accepted that she had caused the carpet staining. The landlord said that a dispute arose about liability for the flooring and lino in the laundry. The landlords say that when they stood on the floor that they noticed it was 'squishy', the lino was also wavy. When they asked the tenant to explain how the floor was like this, they say she said it was not her problem and that it was wear and tear. The landlord then looked under a tub and noticed a leak. They say that the leak was obvious, and the tenant should have told them about it. They say that the tenant became angry and left the property.

7. The landlord says that they had signed new tenants to the property. That new tenancy was due to start on the 14 September 2025 four days after this tenancy ended.

8. The landlord has made the following claims following the end of the tenancy:

    - Water rates of $42.63
    - The insurance excess for the repair of the damaged floor due to an unreported leak $500.00
    - Damage to the lino and carpet $3000.00
    - Chipped glass $688.85
    - Replacement keys $60.00

- Replacement heat pump that was missing $112.40
- Rubbish removal $500.00
- Cleaning $675.00
- Lost rent due to new tenants being able to move in because of damage and condition of the property $4375.

9. The landlord provided water rates invoices that showed an amount owing by the landlord at the end of the tenancy, it did not show me the water consumption by the tenant, and therefore the landlord has not proven their claim for water rates.

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

10. 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.
11. The landlord showed me photographs at the hearing of the condition of the property at the end of the end of the tenancy. The landlord also said that the house smelt very bad, to the extent that when they got tradespeople in that they all commented on the bad smell.
12. I am satisfied from the photographs and the evidence provided by the landlord tenant did not leave the premises reasonably clean and tidy and did not remove all rubbish. I am satisfied that it was likely that the house smelt, floors were dirty, walls and there were tires left at the property, a trampoline that had to be dismantled and disposed of, and rubbish left in the recycling that was household waste and had to be sorted, and then disposed of.
13. The landlord had the property cleaned by a commercial cleaner and I award the landlord the cost of the cleaning which I consider reasonable.
14. The landlord sought $500 for removing and disposing of rubbish of the property, they say that they have dismantled the trampoline and removed the rubbish themselves. They say that the dismantling of the trampoline took hours. The tribunal sees many claims for rubbish removal, and I consider these fees reasonable for the work required to remediate the breach and the disposal fees.
15. The tenant did not return one set of keys. The amount claimed is reasonable.
16. The heat pump remote was missing at the end of the tenancy and had to be replaced.
17. The amounts ordered are proved.

Is the tenant responsible for the damage to the premises?

18. 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.

19. Tenants have an obligation to report any damage that they observe to the landlord, however this obligation does not extend to damage which is not easily reasonably observable. In other words, tenants are not responsible to report damage that they are not aware of or do not know of.

20. 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.

21. 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.

22. 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.

23. 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.

<u>The carpet</u>

24. The landlord is seeking the insurance excess for 6 areas of the house- 3 bedrooms, lounge and hallway and the replacement lino in the bathroom.

25. The landlord said that at one of the first inspections, the landlords realised that the carpet that was only 2 years old at the time that the tenants moved in was becoming very stained by the tenants. They raised the issue with the tenants and the tenants agreed that that they would need to remediate the carpet at the end of the tenancy. The landlord says after that inspection, that whenever they completed an inspection, there was often rugs or playmats covering the carpet, and that it was only at the end of the tenancy when those items were removed that they could see the full extent of the damage to the carpet.

26. The landlord has had the replaced the carpet due to considerable staining throughout the carpet and the ongoing smell in the carpet.

27. The landlord produced photographs of the carpet at the beginning of the tenancy. They show the carpet in excellent condition with no stains. The photographs shown at the end of the tenancy show a carpet that is extensively stained in every room. The landlord tells me that the insurance company commercially cleaned the carpet, but the stains did not come out. The stains are of various colours and appear to have been made at different times by different events. I consider that the nature and the extent of the carpet shows that the tenant showed little care to prevent staining of the carpet and took no steps to clean off stains immediately.

28. I am satisfied that the tenant is responsible for the stains on the carpet and that the nature of the stains meant that the carpet had to be replaced in all areas claimed.

29. I have made a small deduction from the amounts claimed as bedroom 2 the cost of the carpet was only, and I having applied some depreciation.

30. A normal useful lifespan for carpet in residential tenancies is generally 5-8 years, however I consider that due to the excellent condition of the carpet at the beginning of the tenancy that the carpet would have been reasonably expected to last much longer than 5 years.

31. I am satisfied that the tenant damaged the lino in the bathroom.

<u>The laundry floor.</u>

32. The landlord says that the tenant is responsible for water damage to the floor. The landlord says that at the last inspection that they noticed the laundry floor was ‘squishy’ and the lino was wavy. When they sked the tenant why it was like that the tenant told them that it was due to wear and tear and she was not responsible. The landlord says that the tenant became angry and left the property. The landlord said that they opened the cupboard under the tub and found one of the pipes leaking.

33. The landlord claims that the tenant must have known that there was leaking or water damage, or at the very least that there was a problem with the floor. Th landlord claim that the tenant breached s40 RTA by failing to report the leaks, which has made the damage far more extensive than it otherwise would have been. The landlord successfully claimed insurance for this damage and seek the excess from the tenant.

34. I am not satisfied that the tenant failed in their obligations to report the damage because:

a. Water damage from a pipe is not always observable. There was no evidence that there was water on the floor that would have been noticeable to the tenant.

b. The changes in the floor may have occurred over time. If you live with an issue day to day it can be harder to detect changes in something like the texture of the floor. These items are more apparent when you only visit from time to time.

c. It is not known when the leak occurred. There was no evidence to suggest that the leak had been for a long time. The leak might have only occurred in the past week or in the intervening 3 days between the tenancy ending and the final inspection.

35. The tenants are not liable for the damage caused by the leak.

Cracks in the ranch slider window

36. The landlord provided photographs of cracks in the window. I am satisfied that the these occurred during the tenancy as they were not visible in the photographs at the beginning of the tenancy. The landlord had the cracks repaired and I am satisfied that the tenant is liable for the costs of repair.

Lost rent

37. The landlord is claiming for 7 weeks lost rent which it says was lost because the new tenants could not move in whilst the property was being cleaned, the carpet was being replaced and the laundry floor was being fixed.

38. The landlords gave me a copy of a tenancy agreement which showed that the Is the landlord entitled to rent until the new tenants moved in on the 14 September. The landlord says that due to the carpet replacement, and the leak that they had to wait for the insurance company to do the repairs and this meant a delay in the new tenant's moving in. They say that as the tenant caused the problem which lead to the delay (I have only found that the tenant caused the carpet staining not the leak) then the tenant should be liable for the lost rent.

39. I disagree, tenants are only liable for damage that is reasonably foreseeable as a consequence of their breach. I do not consider that the delays in the insurance company assessing the damage and approving the claim and the delay in getting tradespersons to attend to the repairs, leading to delays in the new tenant's moving in to be a reasonably foreseeable consequence of the tenant's breach and therefore they are not liable for the loss of rent suffered by the landlords. The main cause of the delay was not something that the tenant did, but rather was caused by insurance company and getting the work done.

40. I have taken 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 have taken into account the age and condition of the items at the start of the tenancy and their likely useful lifespan.

Filing fee

41. Because Thomas Ewing, Weini Fu-Winslow has substantially succeeded with the claim I have reimbursed the filing fee.

T Prowse
24 February 2026

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.