TENANCY TRIBUNAL AT AUCKLAND | TE TARAIPIUNARA RETIHANGA KI TĀMAKI MAKAURAU

APPLICANT: Susan Mary Stokes O'Callaghan

Tenant

RESPONDENT: Barfoot & Thompson Limited As Agent For S.M & G Schock

Landlord

TENANCY ADDRESS: 59 Clarence Street, Devonport, Auckland 0624

ORDER

1. The application is dismissed.

Reasons:

1. The landlord attended the hearing. The tenant did not attend the hearing.

Background:

2. On 16 February 2026 I received an adjournment request from the tenant for the full day fixture scheduled for 20th February 2026. This is a matter that has had a complex history which I shall outline:
   - TT 5291785 was filed on 23 June 2025.
   - A full day hearing was scheduled for 5 August 2025. Adjudicator Kan dealt with the retaliatory notice claim and adjourned the compensation /exemplary damages claims for another full day hearing.
   - A full day hearing was scheduled for 21 November 2025. The tenant requested an adjournment of that hearing due to ill-health and requested it be rescheduled for after February 2026.
   - I adjourned the hearing as requested due to the tenant claims of ill-health.

- 1 December 2025 the tenant was notified by the Tribunal of the next scheduled full day hearing on 20 February 2026 (a dated specifically requested by the tenant).
- On 16 February I received a request from the tenant to adjourn the hearing until after 25 May 2026. The reason being ill-health. The tenant claims to have asked for an adjournment of this hearing in January 2026. There is no evidence of any request from the tenant seeking an adjournment prior to 16 February 2026.
- On 17 February 2026 I requested further information about when the tenant had requested the adjournment earlier than this day, and an explanation of why she cannot attend the hearing. Furthermore, I asked if she could get a representative to appear for her or is she able to appear on the phone or video rather than attending in person.
- The tenant responded with details of her ill-health status and claims that she was told by Tenancy Services that the hearing was marked as adjourned on the file. This is not correct as I have the full history of this matter and there is nothing to say that this hearing is/was adjourned, or that an adjournment request was made prior to 16 February 2026.
- The tenant did not respond to my suggestion of a representative, phone, or video attendance.
- At 6.47am on 20th February 2026 the tenant sent an email setting out her health issues again and stating, “that in the absence of hearing the adjudicator decision for today I confirm I will not be attending court but would like the hearing to be heard after I receive a full recovery”.
- The hearing was not adjourned. The hearing commenced at 9.30 with two property managers from Barfoot and Thompson Ltd (“B&T”), and their legal counsel.
- The tenant has filed copious documents with the Tribunal on 16 February 2026 in support of her claim scheduled for 20th February 2026, despite stating that she was told the hearing as marked as adjourned.
- The property managers and legal counsel expressed the amount of time and effort that has been put into this claim and the necessity to have the matters resolved. One property manager has left the Devonport office of B & T and had to travel some distance from out of Auckland to attend this hearing today. This property manager has found this experience very stressful and has been personal affected by the claims. Both property managers complain of the resources that have been put into this matter and the time away from their actual duties to deal with the preparation and actual attendance at the hearings.

- Counsel expressed frustration at not being able to resolve the matter and the amount of time she has had to put into preparing submissions as directed by Adjudicator Kan for the previous hearing and time attending hearings.
- The property managers expressed their concern for the owner and the threat of potential liability. The owner has now put the property on the market.
- The Tribunal is required to resolve disputes in a timely manner and fairly. There must be a balance between accommodating health concerns and the need for finality and certainty for all parties.

3. Given the length of time since these claims were filed, the previous adjournment, and the lack of attendance, even on the phone or video, and the lack of evidence to justify a lengthy 3 month further delay, it is not appropriate to adjourn the matter again. There is no indication that the tenant will be "fully recovered" in three months, and may well seek a further adjournment in May 2026, claiming the same issues as have been used in November 2025 and again in February 2026.
4. I am dismissing the tenants claims because she failed to appear at the hearing. During the hearing I raised questions with the landlord on the HHS compliance because of concerns for future tenants and the general standard of the property, not as a finding on the tenant's claims. No findings are made in relation to the tenants claims or the property's compliance with HHS, as the tenant was not present to provide evidence or make submissions.

Healthy Home Standard Compliance:

5. I had some concerns about the claims made regarding health homes standards and lack of maintenance at the property. I felt it was important before I considered dismissing the tenant's claims that I have information about the property particularly if it was to be rented to other tenants in the future.
6. I asked the property managers about the healthy home compliance status of the property. I was provided with a well-documented folder of evidence regarding the property and the maintenance history and healthy homes compliance.

Tenancy pre-dates HHS:

7. I do note that this is a tenancy that commenced in 2016, before the Healthy Home Standards (HHS) were mandatory. The HHS were introduced through the Residential Tenancies (Healthy Homes Standards) Regulations 2019, with further updated compliance dates in 2022. The final compliance date for private rental properties was 2025.
8. The full HHS compliance would only become mandatory by the final compliance date of 1 July 2025 for all private rentals.
9. The landlord advised that a Healthy Home Assessment was obtained for the property on 3 July 2020. The assessment highlighted that the heat pump needed

servicing and exactor fans were required in the two bathrooms. Other than this the property was deemed to be HHS compliant.

10. Invoices were provided to show that the work was carried out on the heat pump on 26 July 2020 and extractor fans installed on 15 July 2020.

11. UIV who carried out the HH assessment provided a Statement of Compliance & Assessment Report dated 13 October 2020 confirming that the property had issues with parts of the guttering and the underfloor insulation needed to be topped up. The work was carried out on 15 October 2020 and 23 November 2020 and after that work, the property was fully HHS compliant.

12. On 1 May 2025, the property underwent a further HH assessment. There were a few minor repairs needed for draught stopping, a door hinge and gutter repairs. After completion of these minor repairs the property was assessed as fully HHS compliant.

13. In addition to the HHS information, the property manager provided the Tribunal with a full account of the maintenance that has been carried out over the years.

Limitations Act 2010:

14. The Limitations Act 2010 applies to claims before the Tenancy Tribunal. This means that, in general a party must bring a claim within 6 years from the date the act or omission giving rise to the claim occurred. I am raising this fact as some of the claims appear to be at the start of the tenancy which would then bring the Limitation Act into consideration.

Conclusion:

15. The application is dismissed for non-attendance by the tenant.

J Northwood
20 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.