[2026] NZTT 5343017, 5450608

TENANCY TRIBUNAL AT PAPAKURA | TE TARAIPIUNARA RETIHANGA KI PAPAKURA

APPLICANT: Taimona Hikurangu Clarke

Tenant

RESPONDENT: Sunnyhome Property Management Limited As Agent For Infinity Estate Trust

Landlord

TENANCY ADDRESS: 14 View Road, Papakura, Papakura 2110

ORDER

1. The Bond Centre is to pay the bond of $1,098.02 (BN-00065640) to Sunnyhome Property Management Limited As Agent For Infinity Estate Trust immediately. The Bond Centre is to pay the bond of $1,181.98 (BN-00065640) to Taimona Hikurangu Clarke immediately.

Description	**Landlord**	**Tenant**
Rent to 13 July 2025	$244.29	
Cleaning	$350.00	
Replace carpet	$731.86	
Reimbursement of water charges		$228.13
Total award	**$1,326.15**	**$228.13**
Net award	$1,098.02	
Bond	$1,098.02	$1,181.98

Reasons:

1. Both parties attended the hearing in person on 24 February 2026.

Background

2. The tenant applied to the Tribunal on 10 September 2025 for refund of the bond and compensation.

3. The landlord applied to the Tribunal on 20 February 2026 for rent arrears, cleaning, and replacement carpet.

4. The parties signed a residential tenancy agreement for a fixed term from 3 February to 3 August 2025. The tenancy ended on 13 July 2025.

5. The advertisement for the tenancy, which the tenant saw, noted that the neighbour shared the power bill: “(Attention: the property has a granny flat attached to it).”

6. The advert further warned: “** This property has a granny flat attached to it ** If you like privacy and no sharing, please do not apply!”

Rent and Cleaning

7. The landlord provided a rent summary showing the tenants owed $244.29 to the end of the tenancy (3 days rent).

8. The tenants have not provided any evidence showing that the landlord’s rent summary has missed any rent payments. I award the amount claimed for rent.

9. The tenant submitted in written submissions that they had to “pay rent to cover the first 4 days we moved in…we believe that because we paid full rent for only 4 days that this should cover the last 3 days of rent…”. I do not understand why rent paid at the start of the tenancy should be credited to the end of the tenancy.

10. The landlord claimed $488.75 for cleaning and carpet cleaning. The cleaner’s invoice stated that the carpet was in a very dirty condition and clogged up their machine, as shown in a photograph.

11. The landlord’s ingoing inspection report dated 2 February 2025 shows the premises in good condition. The landlord’s photographs dated 14 July 2025 show a dirty corner of the laundry floor, stains on the bedroom carpet, hair in the shower, and a dirty oven.

12. The tenant provided photographs taken on 3 February 2025 showing inside the fridge door, the kitchen floor, the bathroom, and a dead fly on a window ledge. There were some cobwebs shown in the photographs, some staining (possibly dirt) on a wall, and some rubbish outside.

13. In these minor ways the premises may not have been provided to the tenant in a reasonably clean and tidy condition. I award $350.00 for cleaning.

Carpet Replacement

14. The landlord said the carpet could not be cleaned successfully and had to be replaced. The cost of replacement was $1,760.00 but the landlord was only claiming $731.86 (half the cost).

15. The evidence, particularly the photographs of clogged cleaning equipment, tends to show that the carpet could not be restored to a reasonably clean condition. Therefore, the carpet had to be replaced.

16. The damage is more than fair wear and tear, and the tenant has not disproved liability for the damage as required by section 40 of the Residential Tenancies Act 1986 (the Act). It follows in my view that the tenant is liable for the amount claimed, which is only a contribution to the actual cost of replacement.

Unlawful Residential Premises

17. Section 78A of the Act defines unlawful residential premises. Section 40 of the Building Act 2004 provides that building work must not be carried out without a building consent. Section 115 of the Building Act provides that a change of use involving the incorporation in a building of one or more household units, where household units did not exist before, requires local authority consent. There are also regulations which further define what is meant by change of use.

18. The premises comprised a residential dwelling divided into two self-contained apartments. The tenants lived in a two-bedroom unit with its own kitchen, lounge, ensuite and bathroom. Another occupant lived in the adjoining one-bedroom unit with a kitchenette and bathroom. The units were self-contained, and the living spaces and facilities were not shared. It seems that the premises have not always been configured in this way, although when the “granny flat” was added is not clear.

19. The landlord said they spoke to a Council officer who referred to Schedule 1 of the Building Act 2004. The landlord noted that building work relating to internal walls in an existing building does not require a building consent unless the wall is loadbearing, a bracing element, a fire separation wall, or part of a specified system. The landlord submitted that the internal wall separating the living area in the property did not fall within those restricted categories.

20. The tenant said that the owner was only paying property rates for one property at the tenancy address. The tenant provided a screenshot which seems to be from a real estate website and not the Council, headed “Property Information”. The “Land use” is stated as “single units”. The tenant said the Auckland Council website states: “If you have a home with a flat, unit, additional or minor dwelling, you will pay two fixed charges”. This relates to the Uniform Annual General Charge (UAGC) which is a fixed charge applied to every separately used or inhabited part (SUIP) of a property.

21. Whether or not the required rates are being charged is not a matter with which the Tribunal is concerned. I am not convinced that any meaningful inference about compliance with section 115 of the Building Act 2004 can be derived from the treatment of the premises for rates purposes.

22. However, the reference to “single units” is concerning as it tends to suggest that the premises were consented as single dwellings, intended to be lived in by a single household or family (including granny flats when occupied by a member of the same family). However, this does not obviously reflect any formal Council designation or information.

23. I consider that the evidence provided by the tenant does not go far enough. It was necessary either to provide the property file (or relevant parts of it) to see whether the unit was consented for residential use by more than one household, or to obtain a written statement from a Council officer explaining whether there had been a consented change of use. The Tribunal cannot take the serious step of finding that premises are unlawful under section 78A without cogent evidence.

24. For completeness, I would like to note that the reliance on Schedule 1 of the Building Act 2004 by the landlord is misconceived in my view. While the building work itself may not require a building consent, the context in which the building work takes place is crucial. If the use of a building is being changed by the creation of additional household units, that goes beyond the mere alteration of an internal wall. There are obvious issues with fire safety and ongoing compliance with the Building Code in that situation.

Power and Water

25. There was only one power meter and one water meter. The adjoining occupant’s water use was included in her rent. The tenant shared the power bill with the adjoining occupant who paid a one-third share. In a written statement, the neighbour said this had been agreed with the tenant.

26. In the past, the Tribunal adopted a strict approach to claims for water and power charges where these were not separately metered - and refused to make awards in the landlord’s favour. This was recognised as potentially resulting in a windfall for the tenant (*Geraghty v Raui* [2019] NZDC 3813).

27. Instead, the Tribunal must approach the application of section 39 of the Act, which relates to liability for outgoings, consistently with section 85. This specifies that the Tribunal must apply general legal principles consistently with the substantial merits and justice of the case.

28. To begin with the tenant was living with her partner and their daughter. Through Oranga Tamariki, the tenant later had caregiving responsibilities for several other children (her message to the landlord on 1 June 2025 referred to four children). Conversely, there was only one occupant in the granny flat. It is not obviously

inequitable that the tenant should be held liable to pay two-thirds of the power charges in those circumstances. There were more people in the tenant's unit, who were almost certainly using more power than the adjoining granny flat.

29. The landlord said that shared water usage occurred only for a limited period, from 3 February 2025 to approximately 20 April 2025, when the tenant in the granny flat left. The letter from the adjoining occupant states that she moved out temporarily in April 2025 for about four to five weeks. When she returned in early June there were more children next door, and the noise issues were worse. The adjoining occupant moved out permanently on 3 June 2025.

30. I consider the landlord's proposed reduction in the water charges is reasonable and reflects the fact that the adjoining occupant was not living in the premises in May and moved out early in June 2025. The tenants were paying for their neighbour's water charges initially but not for the final few months of the tenancy. On this basis I award a refund of water charges to the tenant of $228.13.

Filing Fee and Name Suppression

31. Both parties have had some success. It is appropriate that they bear their own costs of the Tribunal process.

32. The tenant requested suppression. The tenant has not succeeded in relation to several issues. I decline suppression.

THE SEAL OF THE TENANCY TRIBUNAL

M Edison
04 March 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.