[2026] NZTT 5403689

TENANCY TRIBUNAL AT REMOTE LOCATION | TE TARAIPIUNARA RETIHANGA

APPLICANT: Barfoot & Thompson Limited As Agent For Stanmore Bay Village Limited

Landlord

RESPONDENT: Dillon Willcocks-Johanson

Tenant

TENANCY ADDRESS: 47 Mata Lane, Stanmore Bay, Whangaparaoa 0932

ORDER

1. Dillon Willcocks-Johanson must pay Barfoot & Thompson Limited As Agent For Stanmore Bay Village Limited $3,854.74 immediately, calculated as shown in table below.
2. The Bond Centre is to pay the bond of $74.00 (BN-00047150) to Barfoot & Thompson Limited As Agent For Stanmore Bay Village Limited immediately.

Description	**Landlord**	**Tenant**
Rent arrears from 24/9/2025 to 6/10/2025	$1,430.00	
Water rates	$621.44	
Cleaning	$360.00	
Carpet Cleaning	$360.00	
Repairs: Vanity, window stays, door stop, waste disposal switch, holes and scrapes on walls	$1,129.30	
Filing fee reimbursement	$28.00	
Total award	**$3,928.74**	
Bond	$74.00	
Total payable by Tenant to Landlord	**$3,854.74**	

Reasons:

1. The landlord attended the hearing by video represented by Mr McCall.
2. I am satisfied that the tenant was served with the notice of hearing including instructions for joining the hearing by video or telephone. However, he did not join the hearing. The Tribunal also called him on his cell phone number which Mr McCall said he had successfully contacted him on a few days ago. Both calls diverted to voicemail. As the tenant did not attend, the hearing proceeded in his absence.
3. The landlord has applied for rent arrears, compensation, refund of the bond, and reimbursement of the filing fee following the end of the tenancy.

How much is owed for rent/loss of rent ?

4. The tenancy ended by Tribunal order under application 5323342 (the previous order) on 23 September 2025. Rent arrears owed as at 23 September 2025 and refund of the bond were also awarded to the landlord under the previous order.
5. The tenancy was for a fixed term until 26 February 2026. While the landlord obtained an order terminating the tenancy on 23 September 2025, the tenant did not vacate that day. At an inspection on 24 September 2025, the landlord noted that all his belongings were still present. On or about 30 September 2025, the landlord sent the tenant a text asking when he would be vacating the premises. Mr McCall says the tenant rang him after this stating that he had vacated and the landlord may get rid of what he had left behind.
6. The landlord produced photos showing a large amount of items left at the premises. The photos also showed that the premises were not reasonably clean and tidy and there was significant damage at the end of the tenancy. The landlord took immediate steps to clean, tidy and repair the damage and remove the tenant's belongings and rubbish left at the premises. Mr McCall says that this work was completed so that the premises were ready for re-letting by 6 October 2025. The landlord therefore seeks rent to that date.
7. I am satisfied that it is fair to award rent until 6 October 2025 for two reasons. First, this was a fixed term tenancy not due to end until 26 February 2026. It was only terminated because of the tenant's failure to pay rent, and so that the landlord could mitigate any further loss of rent. However, the tenant was liable for rent to the end of the fixed term. In circumstances where a fixed term tenancy is terminated because of the tenant's breach, it is fair that the tenant is responsible to pay rent until a new tenant is found. In this case, the landlord only seeks rent to the date the premises were ready to relet.
8. Secondly, the tenant failed to make a reasonable effort to fully vacate by removing all rubbish and belongings. This work fell to the landlord. Therefore, I

consider the landlord should be reimbursed for the loss of rent caused because of the time needed to clean up the premises before they could be relet.

9. The landlord provided rent records which prove the amount owing at the end of the tenancy.

How much is owed for water rates?

10. The landlord seeks recovery of two bills for water and wastewater charges. The first bill for $1,196.32 covers the period from the start of the tenancy on 21 February 2025 until September 2025. The bill was issued on 17 September but it is not clear when the reading was taken. The bill likely covers the first 6 months of the tenancy. The second bill for $222.67 covers the following period to the end of the tenancy

11. I asked the landlord why they had not invoiced the tenant for water at regular intervals. Usually, water is invoiced monthly. Mr McCall explained that the premises are an apartment in a relatively new building and Watercare were not sending the charges through to the owner. I asked whether the landlord had warned the tenant about the issue and that water charges would be passed on eventually. Mr McCall said that they had not informed the tenant of the problem.

12. The tenancy agreement and section 39 Residential Tenancies Act 1986 (RTA) provide that the tenants are liable to pay all charges for metered water supplied to premises.

13. However, in the District Court case of *Woollams v Simpson*[1] Judge McElrea considered whether a landlord could pass on charges several months after they were incurred. He considered the issue within the scope of section 85 of the RTA which provides that the Tribunal is to exercise its jurisdiction in a manner that is most likely to ensure the fair and expeditious resolution of disputes. Importantly, subsection (2) provides:

    The Tribunal shall determine each dispute according to the general principles of the law relating to the matter and the substantial merits and justice of the case, but shall not be bound to give effect to strict legal rights or obligations or to legal forms or technicalities.

14. Judge McElrea went on to find in *Woollams* that there was an implied obligation on landlords to advise their tenants of the water charges payable as they accrue, or within a reasonable time thereafter, unless otherwise agreed, failing which a landlord would not be entitled to recover the water charges. He stated:

    "In my view, there is an implied term in this tenancy agreement that the landlord would provide accounts to the tenant at regular intervals so as to enable

[1] *Woollams v Simpson,* DC Auckland, CIV 2005-004-1583

payment to be made.....I imply such a term because it seems to me to be a necessary term to make commercial sense of the agreement. How can a tenant be expected to pay for a regular charge such as a quarterly charge unless it is told the amount of the charge from time to time? That makes nonsense of any attempt to budget, which presumably most tenants have to do, whether they be commercial or residential tenants.....In my view, the implied term which I read into the Act and into this agreement is necessary in order to make the clause a workable one from a commercial point of view, and in order to decide the matter according to the substantial merits and justice of the case."

15. The tenant here was not sent any water accounts at regular intervals during the first 6 months of the tenancy. On the basis of the evidence, the law and also having regard to the substantial merits and justice of the case, I consider that it would not be fair to allow the landlord to recover the full amount of the charges from the tenant.

16. Tenants can reasonably expect to be invoiced for water at least every month. At the most, I consider that charges should not be delayed beyond a period of two months. For that reason, I consider that it is fair for the tenant to pay the last two months' worth of charges on the first water bill which is approximately 33% of the bill. The second bill is also recoverable. This makes a total of $621.44.

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

17. 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) RTA.

18. The tenant did not leave the premises reasonably clean and tidy, and did not remove all rubbish as shown in the photos produced in evidence.

19. The amounts ordered are proved.

Is the tenant responsible for the damage to the premises?

20. 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.

21. Where the damage is careless and is not covered by the landlord's insurance(as is the case here) 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.

24. The following damage was caused during the tenancy: The bathroom vanity bowl was cracked; several window restrictors had been removed/damaged; a doorstop was missing; the switch for the waste disposal was broken; and there were several scrapes and gouges on the walls. The damage is more than fair wear and tear, and the tenant has not disproved liability for the damage.

25. The amounts ordered to replace the missing or damaged items and for repairs are proved.

26. 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. In particular, I note that the premises were part of a new build. I find that the amounts expended to replace and repair items were very reasonable and no depreciation is justified in the circumstances.

27. As the landlord has substantially succeeded with their claims, they are entitled to reimbursement of the filing fee.

K Stirling
12 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.