[2026] NZTT 9077264

TENANCY TRIBUNAL AT AUCKLAND | TE TARAIPIUNARA RETIHANGA KI TĀMAKI MAKAURAU

APPLICANT:	Carole-Anne Haines Original owner (Unit 1)
RESPONDENT:	Body Corporate 102123 Body corporate
UNIT ADDRESS:	Unit/Flat Flat 1, 11 Whitaker Place, Grafton, Auckland 1010, Pakpal House

ORDER

1. Carole-Anne Haines must pay $1,735.36.00 Body Corporate 102123 immediately, calculated as follows:

Descriptions	**Applicant**	**Respondent**
Remedial Levy: Remainder of the interior remediation costs for Unit 1		$2,235.36
Filing Fee	$500.00	
Total award	**$500.00**	**$2,235.36**
Total payable by Applicant to Respondent		**$1,735.36**

Reasons:

1. Both parties attended the hearing.
2. The original owner of Unit 1 has applied for a declaration that she is not liable for the outstanding levy balance of $5,355.36 for the remedial works for water damage. The water damage was remediated under a scheme which was put in effect by an agreement under s74 of the Unit Titles Act 2010 (UTA). The original owner of Unit 1 is also seeking reimbursement of the filing fee.

3. Initially there was a cost estimate that was exceeded and the costs as I understand them now approach or exceed $100,000.00.

Does the Unit 1 Owner owe the levies claimed?

4. A unit owner must pay all body corporate special levies payable for the unit pursuant to s74 of the UTA.
5. The body corporate determined the special levies payable for the remedial works for water damage, and some additional internal work some specific unit owners requested to get their units to a saleable condition.
6. The body corporate has invoiced the original owner of Unit 1 for the following special levies:
    a. $780.00 for repairs behind an internal door;
    b. $747.77 for repairs to the garage door; and
    c. $7,073.43 for water damage remediated under the s74 of the UTA scheme (including water damage to Unit 1 from Unit 2's leaking deck and a contribution to the balance of the common area project costs)
7. The body corporate also credited $1,718.07 to the original owner of Unit 1 from the monies paid by the unit owners in advance of the code of compliance.
8. The body corporate has provided records to prove the original owner of Unit 1 has paid $780.00 and $747.77 on invoice, but she disputes owing $3,120.00 for the remediation costs as she and the original owner of Unit 2 had an agreement that the original owner of Unit 2 had agreed she would pay for the estimated remediation of Unit 1's lounge and office ceiling/wall.
9. The body corporate sent out a statement, around September 2022, that records the agreement between the original owners of Unit 1 and 2, after which the original owner of unit 2 paid the requested $3,120.00 (including GST/Margin of 30%) for the Unit 1 remediation. The body corporate accepted the $3,120.00 paid, however has sought to reallocate this money against other debts of Unit 2, over two years after having accepted that payment for the purpose of the Unit 1 remediation.
10. The original owner of Unit 1 accepts liability for the difference in cost between the estimated and final remediation costs, being the difference between $3,120.00 estimated and the actual cost of $5,157.75. However, the body corporate relies on the terms of the s74 project that states all unit owner are responsible for their own internal unit remediation costs and seeks full payment of the actual costs incurred in remedied the damage to Unit 1 from the Unit 2 deck leak.
11. The body corporate accepted the $3,120.00 paid by the original owner of Unit 2, in satisfaction of the liabilities of Unit 1. Having done so, it now seeks to resile from this acceptance.

12. The body corporate was aware of the contractual arrangement between the owners of Units 1 and 2, which is recorded in the September 2022 statement sent to all owners.

13. The funds were accepted in full knowledge of the arrangements between Units 1 and 2 and as such, were a variation on the agreement recorded in the s74 UTA project agreement. The body corporate is bound by this variation and cannot resile from it.

14. Therefore, the $3120.00 paid by the original owner of Unit 2 must be credited to the Unit 1 liability it was originally intended for. This leaves the original owner of Unit 1 to pay the amounts set out in the Order table above.

Reimbursement for filing fee

15. Section 102(4) of the Residential Tenancies Act 1986 (RTA) confirms that applicants that are wholly or substantially successful in proving their claims will have their filing fee reimbursed.

16. Because the Unit 1 Owner has substantially succeeded with her claim, I have reimbursed the filing fee. (Refer to s176(1) UTA and section 102(4) RTA).

M Pollak
29 June 2026

Please read carefully:

SHOULD YOU REQUIRE ANY HELP OR INFORMATION REGARDING THIS MATTER PLEASE CONTACT **UNIT TITLE SERVICES 0800 864 884**.

MEHEMA HE PĀTAI TĀU E PĀ ANA KI TENEI TAKE, PĀTAI ATU KI TE TARI **UNIT TITLE SERVICES 0800 864 884**.

AFAI E TE MANA'OMIA SE FESOASOANI E UIGA I LENEI MATAUPU FA'AMOLEMOLE IA FA'AFESO'OTAI'I LOA LE OFISA O LE **UNIT TITLE SERVICES 0800 864 884**.

Rehearings:

You may make an application to the Tenancy Tribunal for a rehearing. Such an application must be made within five working days of the order and must be lodged at the Court where the dispute was heard.

The ***only*** ground for a rehearing of an application is that a substantial wrong or miscarriage of justice has or may have occurred or is likely to occur. Being unhappy or dissatisfied with the decision is not a ground for a rehearing. (See 'Right of Appeal' below).

Right of Appeal:

If you are dissatisfied with the decision of the Tenancy Tribunal, you may appeal to the District Court. You only have 10 working days after the date of the decision to lodge a notice of appeal.

However, you may **not** appeal to the District Court:

1. Against an interim order made by the Tribunal.
2. Against an order, or the failure to make an order, for the payment of money where the amount that would be in dispute on appeal is less than $1,000.
3. Against a work order, or the failure to make a work order, where the value of the work that would be in dispute on appeal is less than $1,000.

There is a $200.00 filing fee payable at the time of filing the appeal.

Enforcement:

Where the Tribunal made an order that needs to be enforced then the party seeking enforcement should contact the Collections Office of the District Court on **0800 233 222** or go to www.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.