[2026] NZTT 5555421

TENANCY TRIBUNAL AT REMOTE LOCATION | TE TARAIPIUNARA RETIHANGA

APPLICANT:	Kāinga Ora–Homes And Communities Landlord
RESPONDENT:	[The respondent/s] Tenant
TENANCY ADDRESS:	[Tenancy address suppressed]

ORDER

1. An application for suppression has been made in this case, and the Tribunal orders suppression of the Tenant's name and identifying details.
2. The application is dismissed.

Reasons:

1. Both parties attended the remote hearing on 7 September 2026.

2. The tenancy commenced on 18 July 2022 and is current.

3. The landlord seeks termination of the tenancy for what it says was a breach of s.55(1)(c)(iii) Residential Tenancies Act 1986. That section provides;

   "...the Tribunal shall make an order terminating the tenancy if the Tribunal is satisfied that –

   …(c) the tenant has assaulted…any of the following persons;

   (iii) any agent of the landlord.

Standard of proof

4. The relevant law is found in the Residential Tenancies Act 1986 ("RTA").

5. The landlord ("KO") must prove their claim to the civil law standard of proof, on the balance of probabilities. This means that they must establish that what they are claiming is more likely than not. This is referred to as the "burden of proof." Independent witnesses, corroborating documents and photographs are an important part of discharging this burden.

6. Where there are serious or even criminal allegations involved, the standard of proof remains the balance of probabilities, but the Tribunal will expect stronger or more convincing evidence for more serious allegation, in line with the principal that the more serious the allegation, the stronger the evidence provided.

7. As noted by the District Court in *Katipo v Clarke & McCarthy* (DC) TT233/02, in practical terms this means that:
   [L]ike anyone who brings an application before a Tribunal or Court, it is incumbent upon the applicant to provide the evidence necessary to prove the case. If the applicant fails to do that, then their application will be dismissed whether it has merit of not …."

8. The Tribunal does not need to be completely certain, but I need to be more certain than uncertain. In deciding any particular claim, I must consider all the evidence presented (including oral evidence at the hearing). I must weigh this evidence to decide what is more likely.

9. Documentary and oral evidence was provided by the parties. Whilst this decision might not refer to all of it, the parties can be assured that I have considered it.

Landlord's Evidence

10. KO relies on the evidence of a tradesman Mr A and his Manager, Ms B.

11. In his signed statement, Mr A says that he is an electrician. His employer was contracted by KO.

12. Mr A said that he attended the tenant's premises on 12 June 2026 to complete repairs to an exterior ventilation unit. The tenant was not at home when he commenced work on the unit.

13. At some point the tenant arrived home. Mr A was nearly finished work on the unit when the tenant asked him to check the bathroom fan which he suspected to be faulty.

14. Both parties were in the bathroom. Mr A said “While discussing the fan, he stepped forward, cupped and squeezed my genitals with his hand. I got a shock by his actions and pulled away from him. He has said “ Oh yeah sorry, I had to do that because you looked so good.”

15. Mr A felt uncomfortable and left the building. He called his manager from his van to explain what had happened. He completed a Health and Safety report as well as reporting the matter to the Police.

16. Mr A’s manager gave evidence conforming receipt of the call from Mr A and that Mr A had appeared stressed at that time.

17. The tenant said that he and Mr A were in the bathroom which was a small space. He said that any touch was accidental and that he made no comment about needing to touch Mr A.

18. KO said that there had been no previous or subsequent allegations of this nature regarding the tenant in his more than four-year tenancy.

19. The touch by the tenant, if proven, amounts to an assault. Mr A is an agent of the landlord.

20. I have reviewed the evidence and the burden of proof on the landlord. The landlord is entitled to proffer a written statement in support of its allegation. Mr A did not attend the hearing to give his evidence in person and to be cross examined. KO said that Mr A did not wish to attend the hearing and considered that he had done enough by providing a statement.

21. The Tribunal is not bound by the normal rules of evidence that may apply in courts (s.97 RTA). It can receive written statements in evidence. What is important is the weight that may be attached by the Tribunal to that evidence.

22. This is a case where only two parties can give evidence of what actually occurred in the bathroom at the premises. Mr A and the tenant. Mr A’s evidence was provided by way of written statement. Mr A was not made available to give evidence and to be cross examined by the Tenant as to what occurred. For that reason, less weight is given to the evidence of Mr A. Given the seriousness of the allegation against the tenant and the seriousness of the consequences, I consider that the landlord was obliged to provide more convincing evidence.

23. I am not persuaded that the landlord has proven on the balance of probabilities that Mr A was assaulted by the tenant. The application is dismissed.

24. The tenant applied for name suppression. The tenant has been wholly successful this hearing. Suppression of the tenant's name and details is ordered.

S Young
07 September 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.