[2026] NZTT 9083964

TENANCY TRIBUNAL AT MANUKAU | TE TARAIPIUNARA RETIHANGA KI MANUKAU

APPLICANT:	Body Corporate 122401 Body corporate
RESPONDENT:	Goodhope Trading Company Limited Owner of a principal unit
UNIT ADDRESS:	Unit/Flat D, 8 Rowe Street, Onehunga, Auckland 1061

ORDER

Goodhope Trading Company Limited must pay Body Corporate 122401 $11,831.60 immediately, calculated as follows:

Descriptions	Applicant	Respondent
Costs	$11,043.85	
Appearance of counsel at hearing (1 hour)	$287.75	
Filing Fee	$500.00	
Total award	**$11,831.60**	

Reasons:

1. Both parties attended the hearing.
2. The body corporate seeks recovery of costs under s 127 of the Unit Titles Act 2010 arising from breach of the body corporate operational rules by the unit owner's tenant.
3. The evidence establishes that the body corporate received numerous complaints regarding odours, waste disposal and related nuisance arising from activities conducted from the respondent's unit.
4. Breach notices were issued and the matter required ongoing investigation and enforcement action by the body corporate.

5. The unit owner failed to adhere to the breach notices and continued to allow the emission of the rotten chicken odour from the unit until the tenant vacated in early August 2026.
6. Although the tenant has since vacated the unit and the offending activity has now ceased, costs had been incurred by the body corporate in investigating the complaints, enforcing compliance, and bringing these proceedings.
7. Section 127 of the Unit Titles Act 2010 ('the Act') permits a body corporate to recover any expense incurred from a breach under the Act or the body corporate operational rules, by any owner or their tenant.
8. Section 80(j) of the Act requires an owner of a principal unit to comply with the body corporate operational rules. Here the rules require the unit owner not to interfere with the reasonable use and enjoyment of common property by other owners, and dispose of rubbish tidily and hygienically.
9. In breach of the rules, the unit owner's tenant ('the Tenant') has caused or permitted the emission of odour of rotten chicken into the surrounding units and common property.
10. On 26 February 2026, the Body Corporate committee (the Committee) complained to the Body Corporate's manager, Body Corporate Administration Limited (BCA) regarding the odour from the unit.
11. On 5 March 2026, the body corporate sent a breach notice to the unit owner setting out the rules breached.
12. On 18 March 2026, a site investigation was conducted by a compliance officer ('the Officer') from Auckland Council. The Officer reported that he was able to detect the odour in question and took pictures of the unit.
13. On 27 March 2026, the body corporate sent a second breach notice to the unit owner.
14. The unit owner and their Tenant failed to adhere to the breach notices and continued to allow the emission of the rotten chicken odour from the unit.
15. On 2 April 2026, Auckland Council sent the Tenant an email advising the detection of the rotten chicken odour beyond the boundaries of the unit and to cease odour pollution to the area.
16. On 20 April 2026, a complaint was logged with Auckland Council about odour coming from the unit. The complaint stated that the tenants of Unit 8E were "threatening to break their lease" because of the smell. It described the odour as a "constant smell of rotting meat" and said it was "unbearable".
17. On 23 April 2026, another complaint was logged with Auckland Council, noting that a rotten chicken can be smelt from the unit and that previous jobs have been logged against the Tenant's for the same issue.

18. On 21 May 2026, counsel for the body corporate Price Baker Berridge ('PBB') sent the unit owner a breach letter, setting out the breach.

19. Despite the breach letter and previous notices issued, the Tenant continued to breach the Rules by the emission of odour of rotten chicken to the surrounding units of the Body Corporate.

20. On 15 June 2026, a Committee member sent an email to the complaint officer of Auckland Council with photos of raw chicken in the unit.

21. On 16 June 2026, an abatement notice was issued to the Tenant by Auckland Council, requiring the chicken meat processing and handling business to cease by 30 June 2026.

22. On 3 July 2026, another complaint was logged with Auckland Council. It described the odour as "generating a persistent, severe odour of rotten and decomposing chicken."

23. On 19 July 2026, another complaint was logged with Auckland Council. It described the odour as a "rotting meat smell" that it is there "most of the time".

24. In early August 2026, the Tenant moved out of the unit and activities causing the rules breach finally ceased.

25. The body corporate has proved that from February to August 2026, the unit owner and their Tenant have breached section 80(1)(j) of the Act by failing to comply with Rules 2, 4, 9(a), 9(b) and 9(d) of the body corporate operational rules.

26. While Auckland Council subsequently cancelled its abatement notice, the Council's cancellation of the notice does not provide a defence to the unit owner's and Tenant's breach of the body corporate operational rules. This is because the abatement notice only relied on provisions from the Auckland Unitary Plan that did not address the overall odour pollution nor the operational rule breaches.

27. I am satisfied that the proceedings were reasonably commenced on 22 July 2026 and pursued by the body corporate in response to conduct that gave rise to compliance issues with the operational rules. The costs claimed have been supported by PBB timesheets and were reasonably incurred in addressing the matters that led to this application and the hearing of the body corporate's claim for recovery of costs under section 127 of the Act before me today.

28. While the offending activity has stopped, the Body Corporate is still entitled to seek costs incurred under section 127 of the Act against the unit owner caused by the rule breaches and in bringing these proceedings against the unit owner.

29. Section 127 UTA provides as follows:

Recovery of money expended where person at fault

(1) This section applies if the body corporate does any repair, work, or act that it is required or authorised to do, by or under this Act, or by or under any other Act, and the repair, work, or act was rendered necessary by reason of any wilful or negligent

act or omission on the part of, or any breach of the Act, the body corporate operational rules, or any regulations by, any unit owner or his or her tenant, lessee, licensee, or invitee.

(2) Any expense incurred by the body corporate in doing the repair, work, or act, together with any reasonable costs incurred in collecting the expense, is recoverable as a debt due to the body corporate (less any amount already paid) by the person who was the unit owner at the time the expense became payable or by the person who is the unit owner at the time proceedings are instituted.

30. Following *BC 170989 v Anquila Holdings Ltd* [2020] NZHC 758 at [75]), the elements needed for s 127 costs to be recoverable are when:

(a) There is an act by the Body Corporate;

(b) The Body Corporate must be required or authorised to do the act under the UTA or some other Act;

(c) The act must be rendered necessary by reason of any wilful or negligent act or omission by specified persons;

(d) Those persons must be a unit owner, or his or her or its tenant, lessee, licensee, or invitee

31. Applying section 127 UTA, I am satisfied that the body corporate is entitled to recover from the unit owner legal costs incurred in filing and prosecuting these proceedings to get the unit owner and their Tenant to stop the emission of offensive odour as an “expense” incurred by the body corporate in doing an “act” that was rendered necessary by reason of “wilful or negligent act or omission” on the part of the unit owner (or Tenant) in breaching the operational rules.

32. The reasonableness of the legal and collection costs is viewed on a solicitor-client basis. Consequently, where the solicitor has reasonably charged their client (the body corporate) those costs for time in attendance in responding to the unit owner’s breach of the body corporate operational rules, those very charges are also due and payable by the unit owner pursuant to section 127 UTA.

33. Because the body corporate has succeeded with the claim, I have reimbursed the filing fee.

34. I therefore award the body corporate $11,831.60 as set out in the above table.

J Tam
14 September 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.