

Tenancy Tribunal at North Shore

Applicant: City Space Realty Limited

Landlord

Respondent: Danella Marie Blackmore and Jonathon David Walker

Tenant

Tenancy Address: 46 Everard Avenue, Army Bay, Whangaparaoa 0930

ORDER

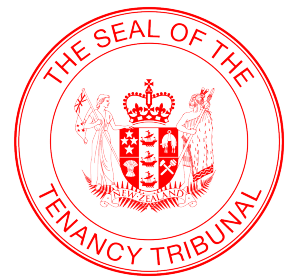
1. Danella Marie Blackmore and Jonathon David Walker are to pay City Space Realty Limited the sum of **\$2,623.55** immediately (being \$97.86 rent arrears to 02/10/18, \$309.00 driveway damage repair cost, \$98.00 hire of compactor for damaged driveway repair, \$350.00 rubbish removal, \$3,498.25 methamphetamine testing cost, \$990.00 exemplary damages for unlawful activity and \$20.44 Tribunal filing fee less the bond of \$2,740.00).
2. The Bond Centre is to pay the part bond of (No: 5491337-002) to City Space Realty Limited immediately
3. All other claims are dismissed.

Reasons

1. This tenancy started 19 June 2018 and ended 2 October 2018, after the tenancy had been terminated by the Tenancy Tribunal (see 4153517).

2. After the tenancy ended, the landlords had reasonable cause to have the property tested for methamphetamine contamination, as it was suspected that the premise was being used for activities relating to methamphetamine. There was also a frequent trail of cars calling at the property daily (neighbours reporting), including finally police vehicles and trucks.
3. The property tested positively for methamphetamine contamination with exceedingly high testing results.
4. The tenant Mr Walker, was apparently arrested and is believed to still be in custody for charges relating to methamphetamine.
5. His co-tenant Ms Blackmore emailed the tribunal late last night/today and confirmed to the tribunal that Mr Walker was still in custody. She also applied for an adjournment today, due to a lack of transport to get to the tribunal.
6. The application has previously been adjourned, due to Mr Walker's unavailability and Ms Blackmore has had ample time to organise her affairs to be here today. Accordingly, I did not grant an adjournment.
7. The property tested positive for methamphetamine contamination and a major restoration and decontamination process is underway and is expected to cost more than \$60,000.00.
8. I accepted the property manager's evidence today, that due to the excessive number of vehicles using the driveway during the tenancy, the gravel driveway was effectively damaged, that the tenant's rubbish had to be removed from the property and a small amount of rent was due. Invoices and rent record exhibited.
9. In addition, the landlord also applied for significant testing and decontamination/restoration costs.
10. However, the property had been tenanted prior to these tenants taking occupation and there was no base line test provided by the landlord confirming that the property was not contaminated, when this tenancy began.
11. While it is apparent the property was used for activities involving methamphetamine, I cannot be sufficiently certain that these tenants alone may have been responsible for the contamination. Accordingly, I am obliged to dismiss the claims for the decontamination/restoration costs.
12. However, after a police raid (see police letter exhibited relating to items found at the property associated with methamphetamine) and the arrest of the tenant Mr Walker and the reports of neighbours of a constant stream of cars calling at the property, the landlord did have reasonable cause to test the property for methamphetamine contamination.
13. That need to test arose directly because of what was suspected of occurring at the property and did occur at the property during and after these tenant's occupation.

14. Accordingly, while I cannot be sufficiently certain the tenants caused the contamination alone, their activities did reasonably cause the landlord to have to have the premises tested for methamphetamine contamination. Therefore, these tenants are liable for that testing cost (invoice submitted), as ordered above.
15. Further, undertaking an unlawful activity at the premises is a breach of section 40(2)(b) of the Act and I am satisfied that the tenants have undertaken or permitted to be undertaken, an unlawful activity at the premises involving methamphetamine (being dealing or smoking). That is a breach that can attract an award of exemplary damages of up to \$1,000.00 (s 40(3A) (c), Schedule 1A).
16. Accordingly, an award of exemplary damages has also been ordered.
17. There was no appearance by either tenant today.



J Hogan
02 April 2019

Please read carefully:

SHOULD YOU REQUIRE ANY HELP OR INFORMATION REGARDING THIS MATTER PLEASE CONTACT **TENANCY SERVICES 0800 836 262**.

MEHEMA HE PĀTAI TĀU E PĀ ANA KI TENEI TAKE, PĀTAI ATU KI TE TARI **TENANCY SERVICES 0800 836 262**.

AFAI E TE MANA'OMIA SE FESOASOANI E UIGA I LENEI MATAUPU FA'AMOLEMOLE IA FA'AFESO'OTAI'I LOA LE OFISA O LE **TENANCY SERVICES 0800 836 262**.

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.