

TENANCY TRIBUNAL AT North Shore

APPLICANT: Harcourts Cooper and Co Ltd
Landlord

RESPONDENT: Johannes Smit, Charmaine Smit
Tenant

TENANCY ADDRESS: 4 Tawa Place, Orewa, Orewa 0931

ORDER

1. The tenancy of Johannes Smit and Charmaine Smit at 4 Tawa Place, Orewa, Orewa 0931 is terminated, and possession is granted to Harcourts Cooper and Co Ltd, at 11.59pm on 10 May 2019.
2. The Bond Centre is to pay the bond of \$2,246.15 (6167278-003) to Harcourts Cooper and Co Ltd immediately.
3. The balance of the bond of \$213.85 is to remain at the Bond Centre.

Description	Landlord	Tenant
Rent arrears to 8 May 2019	\$2,225.71	
Filing fee reimbursement	\$20.44	
Total award	\$2,246.15	
Bond	\$2,246.15	

Reasons:

1. Mr and Mrs Smit have been renting the premises at 4 Tawa Place since 5 January 2019. Harcourts Cooper & Co Limited now make an application in the Tenancy Tribunal against the tenants for rent arrears and reimbursement of the filing fee. Harcourts also seeks to terminate Mr and Mrs Smit's tenancy.
2. Harcourts was represented at today's hearing by Ms Bellam. Mr Smit also attended the hearing..

Should the tenancy be terminated?

3. The Tribunal may terminate a tenancy for breach where, due to the nature or extent of the breach, it would be inequitable to refuse to terminate. See section 56(1) Residential Tenancies Act 1986.
4. Where the breach is capable of remedy the landlord must first serve a notice on the tenant requiring them to remedy the breach within at least 14 days and establish that the tenant has failed to do so.
5. Mr and Mrs Smit have breached their obligations by failing to pay rent as and when it fell due.
6. Harcourts served a 14-day notice on the tenant on 16 April 2019 and Mr and Mrs Smit did not remedy the breach within the required period.
7. It would be inequitable to refuse to terminate the tenancy because Mr and Mrs Smit have continued not to pay rent or arrears as required. On 3 March 2019 a mediated order evidences that the tenants agreed to pay the arrears with \$100.00 fortnightly payments. No payments were forthcoming. On 10 April 2019 the Tenancy Tribunal ordered Mr and Mrs Smit to pay Harcourts \$1426.15 immediately. No such payment was made. On 18 April 2019 Harcourts sent the matter to NZ Collections and Mr and Mrs Smit were to pay the first of \$200.00 payments on 6 May 2019. There were insufficient funds in Mr and Mrs Smit's account to furnish this payment.
8. For these reasons I consider that it would be inequitable to refuse to terminate the tenancy.
9. Further to this, because Harcourts Cooper and Co Ltd has wholly succeeded with the claim I must order Mr and Mrs Smit to reimburse them the filing fee.



C ter Haar
08 May 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.