

Tenancy Tribunal at Auckland

Applicant: Ashlee Choi and Keegan Rumble and Johnny Wana
Tenants

Respondent: In Property Limited as agent for Dean Spense
Landlord

Tenancy Address: 33 Aitken Terrace, Kingsland, Auckland 1021

AMENDED ORDER

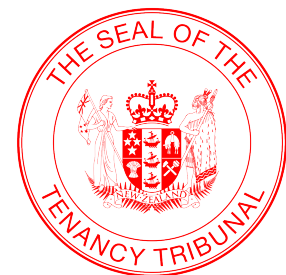
In Property Limited as agent for Dean Spense is to pay Ashlee Choi and Keegan Rumble and Johnny Wana the sum of **\$2,700.00** exemplary damages (“the exemplary damages”). The exemplary damages are payable by way of Ashlee Choi and Keegan Rumble and Johnny Wana being relieved from paying three weeks rent.

Residential Tenancies Act 1986, sections 45(1) (ba), 45(1A), Schedule 1A and Residential Tenancies (Smoke Alarms and Insulation) Regulations 2016

Reasons

1. Representatives of both parties attended the hearing.
2. This amended order replaces the earlier order dated 21 August 2019, in which there was an arithmetical error.
3. This was an application by the tenants for exemplary damages due to the landlord’s failure to install suitably qualifying insulation in the tenanted property by the legislated time limit of 1 July 2019.
4. The tenancy agreement has been in effect since 2015, with various written and signed amendments, making provision for changes of tenants. There are presently some changes of tenant underway, but the named tenants represent the current tenants.

5. The current weekly rental is \$900.00.
6. The property manager acknowledged that despite his efforts since March 2018 to have the owner arrange for the installation of qualifying insulation (a quote was provided to the owner in 2018), the owner finally only paid a deposit and instructed Smart Energy Solutions to install the insulation on or about 6 August 2019.
7. The insulation has still not been installed but is expected to be installed sometime in the next 4 weeks.
8. The property manager acknowledged that the owner, who apparently lives in Tauranga, left it too late to give a final instruction and then under estimated the wait time.
9. The legislated insulation requirement (by 1 July 2019), has been common knowledge since the Residential Tenancies (Smoke Alarms and Insulation) Regulations 2016 came into force on 1 July 2016 and a failure to comply can attract an award of exemplary damages up to a maximum of \$4,000.00.
10. Obviously, this landlord chose to ignore his obligation until it was too late, and the completion of the installation may still be subject to further delay by the installers. The tenants are currently experiencing winter without qualifying insulation and it is in the public interest that landlords comply with the requirements.
11. Accordingly, the above award of exemplary damages is ordered.



J Hogan
24 August 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.