

**TENANCY TRIBUNAL AT** [Event location suppressed]

APPLICANT: [The applicant/s]  
Tenant

RESPONDENT: Weiguo Wang  
Landlord

TENANCY ADDRESS: 14 Keystone Avenue, Mount Roskill, Auckland 1041

**ORDER**

1. The Tribunal orders suppression of the Tenant's name and identifying details.
2. The Bond Centre is to pay the bond of \$3,600.00 ([Bond number suppressed]) to [The tenant/s] immediately.

<b>Description</b>	<b>Landlord</b>	<b>Tenant</b>
Exemplary damages: Harrassment		\$700.00
<b>Total award</b>		<b>\$700.00</b>
Bond		\$3,600.00
<b>Total payable by Landlord to Tenant</b>		<b>\$700.00</b>

**Reasons:**

1. Only the tenant attended the hearing. There was no appearance by the landlord.
2. The tenant had made a number of claims against the landlord, and the landlord had filed a cross-application seeking compensation for damage to carpet and for garden/lawn tidy up.
3. This matter had previously been adjourned by Adjudicator ter Haar to allow both parties to present their evidence.
4. In the event, only the tenant attended today in support of his claim.

5. This tenancy commenced on 15 November 2019 and ended on 14 January 2021.
6. The tenant said that although he signed a tenancy agreement, the landlord has never given him a copy. He is therefore not entirely sure of all the terms of the agreement.
7. Neither party submitted a copy of the tenancy agreement to Tenancy Services.
8. However, the tenant stated that he was the sole tenant in the property and that he had between 2-5 flatmates throughout the term of the tenancy. He lived there most of the time, but also at times stayed with his girlfriend at her place. This is not particularly unusual.
9. The tenant said that from his perspective, when the tenancy ended he had done everything he was required to do and that he left the property in a better state than when he found it. Invoices have been provided to the Tribunal that confirm the property was professionally cleaned and that lawnmowing and gardening services as well as gib repair and painting to repair some minor damage to walls had also been paid for by the tenant at the end of the tenancy.
10. Photographs have also been provided which show the property to be in a reasonably clean and tidy condition.
11. The tenant has made the following claims against the landlord.
  - Compensation – for no heating provided
  - Compensation – for use of tenant’s water by roof cleaner
  - Compensation – for not being able to use a bathroom for two weeks
  - Compensation/exemplary damages – for unlawful entry – the tenant claims that the landlord entered the premises without the required notice on multiple occasions to show prospective tenants the property.
  - Compensation/exemplary damages - for harassment of the tenant by the landlord both during and following the end of the tenancy.
12. During the course of the hearing, the tenant gave evidence in respect of each of these claims, and I will deal with each in turn.

*No heating provided*

13. During the course of the hearing the tenant stated that he had been wrong about no heating being provided, and that he had found out later that there was a heater and he had simply not worked out how to use it. He advised this aspect of his claim was withdrawn.

*Use of tenant's water*

14. The tenant stated that in 2019 towards the beginning of the tenancy the roof was being cleaned. He said that the tradespeople used the tenant's water to undertake this maintenance and that as a result the water rates bill for that month was significantly higher than normal.
15. However, he conceded that he no longer had the water rates bill and could not give any clearer indication of any communications between himself and the landlord over that issue.
16. There is simply insufficient detail to prove this claim on the balance of probabilities.
17. On that basis, I find that this aspect of the claim cannot succeed.

*Not being able to use a bathroom for two weeks*

18. The tenant stated that at the beginning of the tenancy there was only one working bathroom in the property (there were two bathrooms in the property).
19. He said that the landlord advised him not to use the second bathroom as the glass door for the shower needed to be replaced.
20. The tenant said that when the tradesperson attended to undertake this repair, the glass door ended up smashing and there was glass everywhere. He said this made it unsafe to even enter the bathroom, which also happened to be where the laundry facilities were located.
21. The tenant stated that in the end this bathroom was out of action for two weeks.
22. When queried, the tenant said that he was still able to use the other bathroom and that he and the other flatmates had nevertheless been able to shower and do laundry.
23. While I accept that the inability to use the second bathroom caused inconvenience, it is difficult to ascertain any real loss caused to the tenant as there was still a working bathroom in the property. Any claim regarding rent reduction due to inconvenience is one that ought to have been raised with the landlord at the time.
24. I decline to award any compensation for the inconvenience of not using the bathroom for two weeks.

*Unlawful entry*

25. [The tenant/s] claims the landlord has entered the premises without consent or notice.

26. In particular, the claim relates to the period close to the end of the tenancy when the landlord was showing prospective tenants around the property.
27. The tenant says that no notice was given by the landlord when he was going to show prospective tenants through the property. He said he came home from work on a number of occasions to find that people had been through the property. He said only on one occasion did the landlord let him know, but that this was after he had already been through.
28. A landlord may not enter the premises during the tenancy except with the tenant's consent, in an emergency, or after giving the required notice for inspections and repairs and maintenance. See ss 48(1) and (2) Residential Tenancies Act 1986 ("RTA").
29. Section 48(3)(a) of the Act provides that:

With the prior consent of the tenant, the landlord may enter the premises at any reasonable time for the purpose of showing the premises—

  - (a) to prospective tenants...
30. Section 48(3A) provides that:

For the purposes of subsection (3), the tenant—

  - (a) may not withhold his or her consent unreasonably; and
  - (b) may make the consent subject to any reasonable conditions.
31. Breaching this obligation is an unlawful act for which exemplary damages may be awarded up to a maximum of \$1,500.00. See s 48(4)(a) and sch 1A RTA.
32. I find that the landlord did not give the required notice to the tenant. In failing to provide this notice, the landlord has also deprived the tenant of the opportunity to set reasonable conditions regarding this access. I find the landlord has committed an unlawful act.
33. Where a party has committed an unlawful act intentionally, the Tribunal may award exemplary damages where it is satisfied it would be just to do so, having regard to the party's intent, the effect of the unlawful act, the interests of the other party, and the public interest. See s 109(3) RTA.
34. On this occasion although I have found that the landlord has committed an unlawful act, I do not find that this was intentional. It seems rather that the landlord was under a misapprehension about whether he was able to enter the property and may have believed he had the consent of the other flatmates.
35. I therefore decline to award damages for this breach.
36. I remind the landlord that any entry on to the property must be with the consent of the legal tenant. It would be prudent in future for him to ensure that all such matters are recorded in writing.

## *Harassment*

37. [The tenant/s] claims the landlord has harassed him. He says this harassment started mainly towards the end of the tenancy but continued and escalated after he had vacated the property.
38. The tenant's evidence was that once notice had been given and the tenancy was due to end, the landlord's behaviour became unreasonable. He said that from December onwards the landlord pressured him to move his belongings out of the property prior to the end of the tenancy and that he received angry phone calls and messages from the landlord stating that it was the tenant's fault that he was unable to secure new tenants because he had not yet moved all his belongings out. The tenant said that the landlord was effectively pressuring him to move out prior to the tenancy ending and he found this very stressful.
39. It should go without saying that as the tenancy was not due to end until 14 January 2021, the tenant was under no obligation to move his belongings from the property until that date.
40. The tenant further stated that after he had vacated the property, the landlord continued to harass him. In particular, he says that the landlord called or messaged, often several times a day, and that this continued for weeks or even months.
41. He said the landlord managed to get the contact number of his employer and spoke with his employer, claiming that he was "untrustworthy" and "lying" and seeking to damage his reputation. This caused friction at work when the tenant's employer then spoke with him about the situation. He says the landlord also made similar calls to his previous flatmates similarly alleging that he lacks integrity and has poor values.
42. The tenant said that this ongoing harassment led to him being unable to sleep as he felt stressed all the time, and that consequently he could not concentrate at work and made a few mistakes (he is employed as a bookkeeper). He says this led to him being declined a promotion.
43. The tenant has provided a medical certificate from Dr Sanjay Govind which confirms that he attended a consultation in March and reported these symptoms. Following that consultation, he was prescribed lorazepam, an anti-anxiety medication and referred to a specialist for further psychological assistance.
44. During this hearing, the tenant said that the calls and messages had finally stopped after the date of the previous Tribunal hearing (3 May 2021).
45. A landlord must not interfere with the reasonable peace, comfort or privacy of the tenant in their use of the premises. See s 38(2) RTA.
46. Breaching this obligation in circumstances that amount to harassment is an unlawful act for which exemplary damages may be awarded up to a maximum of \$3,000.00. See s 38(3) and sch 1A RTA.

47. Harassment means "to trouble, worry or distress" or "to wear out, tire, or exhaust" and "indicates a particular pattern of behaviour directed towards another person". *MacDonald v Dodds* DC Hamilton CIV-2009-019-001524, 26 February 2010.
48. Where a party has committed an unlawful act intentionally, the Tribunal may award exemplary damages where it is satisfied that it would be just to do so, having regard to the party's intent, the effect of the unlawful act, the interests of the other party, and the public interest. See section 109(3) RTA.
49. I am satisfied that in this case the landlord has engaged in behaviour that amounts to harassment. While a landlord may contact a tenant for legitimate purposes related to the tenancy, the excessive number of communications, as well as their tone, has amounted to harassment. In particular, I find it very concerning that the landlord contacted the tenant's employer in relation to this matter. This was completely outside the bounds of the landlord-tenant relationship.
50. I therefore award exemplary damages in the amount of \$700.00.

*Final Remarks*

51. As the landlord did not attend the hearing to pursue his claims, those claims are dismissed.
52. Because [The tenant/s] has substantially succeeded with the claim I have reimbursed the filing fee.

J R Smith  
08 June 2021

## **Please read carefully:**

Visit [justice.govt.nz/tribunals/tenancy/rehearings-appeals](https://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](https://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 \$200. 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](https://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 for the payment of less than \$1000
- a final order to undertake work worth 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](https://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.

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If you require further help or information regarding this matter, visit [tenancy.govt.nz/disputes/enforcing-decisions](https://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](https://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](https://tenancy.govt.nz/disputes/enforcing-decisions), pe fesootea mai le Tenancy Services i le numera 0800 836 262.