

Tenancy Tribunal

Application

If you have a dispute with your landlord or tenant then you can resolve this by making an application to the Tenancy Tribunal. Please ensure that it is a tenancy dispute, if not it should be addressed in the disputes tribunal (or the District Court) as the Tenancy Tribunal has limited jurisdiction to consider tenancy agreements for Landlords and Tenants only. The application can be done efficiently online and costs just \$20.44 as an application fee. We would highly recommend you make this application as soon as you believe a dispute is unable to be resolved as in our experience hearing time normally takes around 4-6 weeks to be allocated (even for urgent applications).

Application by the Landlord

Normally the Tenancy Tribunal requires the application to be supported by a tenancy agreement, a notice to the Tenants providing 14 days notice to remedy and a summary of rent arrears (if you are the landlord). It will be beneficial for the Landlord to provide more notices and steps taken by the Landlord to try and resolve the breaches/issues. If, for instance, the 14 days to remedy has not yet passed, the Tenancy Tribunal will not intervene.

Application by the Tenant

If you are the tenant, then again you will need a copy of the tenancy agreement, a list of the outstanding damages/amounts sought supported by receipts/quotes from the appropriate builder/consultants and the notice to the Landlord providing 14 days to remedy the breach. Again, evidence of more steps and attempts taken by the Tenant to try and resolve such issues will be helpful to the Tenant.

Landlord/Tenant obligations

A list of the Landlord and Tenant's respective obligations are set out in the Building and Housing Information online (part of the Ministry of Business, Innovation and Employment), please click here (<http://www.dbh.govt.nz/your-rights-and-responsibilities>) for further information. The website generally has many helpful tips so please conduct some initial research on this website before making an application.

Legal Representation and process

As the Tenancy Tribunal is designed to be accessible for everyone, you cannot have a lawyer represent you in the hearing unless:

- 1) the amount in dispute exceeds \$6,000;
- 2) your landlord/tenant agrees for you to have a lawyer;
- 3) the Tenancy Tribunal allows this; OR
- 4) your landlord/tenant also has a lawyer.

It is a public process so you can apply for a court translator (free of charge) if English is not your first language (or for your witness). You can also call as many witnesses as required (but they will not be able to sit in the hearing as they can only give witness evidence when called) and have support people present. Your support people will be able to listen to the hearing, but will not be entitled to speak.

However, we would always recommend you get legal advice before the hearing and in preparing the application, particularly if there is a large amount at stake.

Helpful tips and comments

The Tenancy Tribunal is a user friendly court often notorious for being "pro tenant" and often granting rent abatement (reduced rent), reimbursements or costs to fix and/or orders to fix against the Landlord if the Tenant is able to show that the Landlord breached its obligations to provide a safe and sanitary house. The Tenancy Tribunal places special significant value in the Landlord's obligation to provide a safe and sanitary environment and if there was an issue that was left unresolved for the Tenants while they were occupying the property, the Tenant is likely to get a rent abatement during this period.

We would highly recommend keeping proper records including photos, emails, text or written correspondence wherever possible. If you have oral conversations with your landlord/tenant regarding any such issues, we would recommend keeping a "file note" of what was discussed, who was present and where/when it was discussed.

The Tenancy Tribunal is supposed to be fast and efficient, but from our experience a hearing date normally takes approximately 4-6 weeks to set down the very first hearing date. This date can often be adjourned if the parties require more time, are unavailable, or lack further supporting evidence in their submissions to the Tribunal where the Tribunal will adjourn making orders in order to present the information next time. This can be extremely frustrating for the organised party who has everything ready to go. It is different from a formal District Court process where there are set timeframes to file documents before a hearing. Parties in the Tribunal can often show up to the Tribunal with new information and/or claims and the Tribunal will be obliged to consider this so you should be ready to address any new information and/or claims raised at the hearing.

While the Landlord technically has a right to apply for termination of the tenancy agreement if the Tenant is behind in rent for more than 21 days, our experience has shown that this can easily be delayed by a Tenant who wishes more information and/or claims to be considered by the Tribunal and it is not uncommon for a Tenancy Tribunal hearing date to be adjourned several times before a final decision is made. The final decision can also be reserved (where the adjudicator advises that they will issue a decision after the hearing and this again can take weeks). It is also very uncommon for the Tenancy Tribunal to order compensation/damages or legal costs against a party even if one party has significantly delayed the process.

Conclusion

While you may not be able to be legally represented at the Tenancy Tribunal hearing we would always recommend you obtain legal advice prior to engaging in the process with a view to making it as efficient and in line with your best interests wherever possible.

Disclaimer: This publication is necessarily brief and general in nature. You should seek professional advice before taking any further action in relation to matters dealt with in this publication.

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