

## CIVIL ENFORCEMENT OPTIONS



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There's no denying that debt collection in New Zealand is tricky business. 'Winning' in Court does not automatically lead to payment. Usually, you must take further steps to enforce a Court Order or Judgment – and ensure this money ends up in your bank account where it belongs.

Notwithstanding the above, recent changes in legislation now mean that debt collection has become easier, less time consuming and more cost effective. These changes came into force on 14 April 2014. So now there are easier ways to recover your debts.

Take Alice's situation for example:

Alice owns a rental property at 20 Winding Way. Recently Alice made an application in the Tenancy Tribunal to pursue some outstanding rental arrears owed to her by her previous tenants, ("Mike and Mindy"), who failed to pay. Alice now has a Judgment in her favour for the outstanding amount of \$4,550.00. Some easy options for Alice to collect the debt are set out below:

### Financial Statement:

If Alice is aware of Mike and Mindy's financial details Alice can file a financial statement in the District Court on their behalf. If Alice is unsure of these details she can ask the Court to get Mike and Mindy's financial details directly from them via a telephone call. The advantage of this action is that Alice will be in a better position to review the best course of enforcement action against Mike and Mindy.

### Financial Assessment Hearing:

Alice could then apply for a 'Financial Assessment Hearing'. This is a Court appearance (informal in nature) in which the debtor is asked to provide the Court with information regarding their financial means. The Court then makes a Judgment as to an amount the Mike and Mindy should pay towards the debt. Alice does not need to

present at the hearing, but if Mike and Mindy fail to turn up then the Court can issue a warrant for their arrest.

### Attachment Order:

An Attachment Order is an Order that allows a creditor to recover a debt in instalments directly from the debtor's wages or benefit. Previously, an Attachment Order could only be made during a Financial Assessment Hearing. Now, however, an Attachment Order can be made at District Court, Tenancy Tribunal and Disputes Tribunal Hearings. If Mike and Mindy had agreed to an Attachment Order to their wages at the Tenancy Tribunal appearance, then this could have been made immediately and Alice would not need to take any further steps to recover the debt.

In the absence of agreement Alice can make her own application for an Attachment Order to apply to Mike and Mindy's wages. The application needs to be served to any person over the age of 14 years old at Mike and Mindy's address. This is great news to creditors who have previously faced elusive debtors who refused to appear face to face with a creditor. If Alice does not have Mike and Mindy's new address she may still serve the application by email to both Mike and Mindy personally.

Even if an Attachment Order is in place there is nothing to stop Alice from pursuing other enforcement methods simultaneously.

If you wish to discuss your civil enforcement and debt collection options we would be more than happy to assist.

**20 MINUTE FREE**

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