

Citation:	Favato v Property Agents Board [2025] TASCAT 3
Division:	General
Stream:	Occupational and Disciplinary Stream
Parties:	Humberto Favato (Appellant) Property Agents Board (First Respondent) Suesanne Huzing (Second Respondent)
Hearing Date:	On the papers
Hearing Location:	Hobart
Date of Orders:	9 January 2026
Date Reasons Issued:	9 January 2026
Panel:	R Winter – Senior Member
Orders Made:	<ol style="list-style-type: none">1. Pursuant to s 78(1)(a) of the TASCAT Act the decision of the PAB dated 21 May 2024 to dismiss the complainant’s complaint is affirmed.2. The complainant’s appeal is dismissed.3. The second respondent’s application for costs is to be supported by written submissions not exceeding 4 pages and is to be filed with the Tribunal and served on the complainant within 21 days. If so, served the complainant will have 14 days to file and serve on the second respondent and the Tribunal written submissions not exceeding 4 pages in response to the second respondent’s submissions. In the absence of service of written submissions from the second respondent supporting its application for costs in accordance with this order, the second respondent is to bear her own costs.

Catchwords: Property Agents – Review of decision – Nature of appeal – Failure to act in a fair, honest and reasonable manner.

Legislation Cited: *Property Agents and Land Transactions Act 2016*; ss 100, 111, 116.
Tasmanian Civil and Administrative Tribunal (Additional Jurisdictions) Act 2025;
Tasmanian Civil and Administrative Tribunal Act 2020; s 75, 78, Sch 4;
Anti-Discrimination Act 1998; s 72;
Residential Tenancy Act 1997, s 53.

Cases Cited: *Lawler v Real Estate Institute of Tasmania* [2024] TASSC 31;
Fox v Percy [2003] HCA 22, 214 CLR 118, 77 ALJR 989;
State of Tasmania v Anti-Discrimination Tribunal & Others [2009] TASSC 48;
MMI General Insurance Limited v Donnelly (No.2) [2000] TASSC 163;
Dykes v Bunnings Group Limited [2015] ACTSC 141.

Representation: Appellant: Self-represented
First Respondent: E Skalidis – Dobson Mitchell Allport
Second Respondent: S Allardice – HWL Ebsworth Lawyers

File No: ODS/2025/5

Publication Restriction: Nil

REASONS FOR DETERMINATION

Introduction

1. On 20 March 2023, the complainant, Mr Humberto Favato, lodged a complaint with the Property Agents Board (PAB), dated 22 February 2023.
2. In his complaint, the complainant made one substantive allegation against the second respondent whilst she was employed as a property agent with Blue Edge Property. This single allegation against the second respondent was that she had failed to act in a fair, honest and reasonable manner on the basis that:
 - (a) She had failed to arrange for the large trees and shrubs to be maintained during the complainant's tenancy.
 - (b) She had failed to advertise the property after the complainant advised he was breaking the lease which resulted in the complainant being required to pay additional rent.
 - (c) She required the complainant to pay an unreasonable amount for additional cleaning after the complainant vacated the property.
3. The complainant's complaint was investigated by an investigator for the PAB who sought and received clarifications and extensive further material from the complainant. The investigator submitted a report to the PAB on 20 May 2024.
4. In that report, the investigator recommended that the complaint be dismissed pursuant to s 100(a) of the *Property Agents and Land Transactions Act 2016* (PALTA) on the basis that there was insufficient evidence to substantiate the complaint.
5. On 21 May 2024, the PAB, in a written decision, found that it was satisfied that there was insufficient evidence to substantiate the complainant's complaint, and his complaint was dismissed pursuant to s 100(a) of the PALTA.
6. On 4 June 2024, within 14 days of him receiving the notice of the PAB's decision, the complainant lodged an appeal with the Property Agents Tribunal (PAT) against the PAB's decision of 21 May 2024.
7. In his appeal documentation, the complainant raised a number of matters going to the PAB's assessment of his complaint and generally asserting that the PAB had made an incorrect decision to dismiss his complaint. This is apparent from page 5 of his appeal documentation where the complainant asserted:

...the Board made a very poor decision in saying that the extra charges was not considered a financial impact, although they explicitly against part 64(a) of the Act. Very poor decision from the Board to weight in favour of the real estate agent when considering the allegations of the real estate and the balance of evidence provided was enough to not conclusively establish the extra charge was not excessive even when photos showing the condition of the house before and after. This was also against s 53 of Pt 5 of the Act.

8. From its receipt, the appeal was to be dealt with by the PAT in accordance with s 116 of the PALTA, with there being no issue with the complainant's standing to lodge this appeal on the basis that he was an aggrieved person.
9. For the balance of 2024 until 1 July 2025, the complainant provided what he asserted was further materials in support of his complaint, and a number of directions conferences and other interlocutory processes were undertaken by the PAT.
10. The PAB initially participated in the appeal but subsequent to a directions conference on 11 June 2025, it sought and was granted leave to withdraw from participation in the appeal.
11. On 1 May 2025, the second respondent, via solicitors, filed written submissions in response to the complainant's appeal.
12. On 1 July 2025, pursuant to the provisions of the *Tasmanian Civil and Administrative (Additional Jurisdictions) Act 2025* (TCAAJ Act), the jurisdiction of the PAT to deal with such appeals was transferred to the Tasmanian Civil and Administrative Tribunal (the Tribunal).
13. On 3 July 2025, the complainant provided his responses to the second respondent's submissions of 1 May 2025.
14. Subsequent to the Tribunal's receipt of this appeal the parties were contacted and by 5 August 2025 all parties had indicated that they were content for the Tribunal to determine this appeal on the material before it, without the need for a hearing.
15. Despite the PAB having sought and being granted leave to withdraw from the proceedings by the PAT on 11 June 2025, on 3 September 2025 the solicitors for the PAB filed a general notice of appearance with the Tribunal. No further material was provided by the PAB.
16. This is my decision affirming the decision of the PAB of 21 May 2024 to dismiss the complainant's complaint.

The nature of the appeal

17. In his decision in *Lawler v Real Estate Institute of Tasmania* [2024] TASSC 31 Brett J determined via a process of statutory construction of the PALTA, that the nature of the appeal pursuant to s 116 of the PALTA was to be by way of a hearing *de novo*.
18. At [32], his Honour stated:

In my view, the statutory context leads inevitably to the conclusion that the appeal from the Board to the Tribunal under s 16 is by way of a hearing *de novo*. It is clear that the appeal can relate to any decisions of the Board under the Act, which includes a diverse range of administrative decisions. It certainly includes the matters referred to in s 16(2) that is a decision to refuse to grant renewal of a licence or suspend a licence, but in my view the generality of the ambit of sections 116(1) is not so limited by the more specific provisions of s 16(2).

19. With the commencement of the amendments set out in the TCAAJ Act on 1 July 2025, s 116 of the PALTA was amended to have the jurisdiction for appeals pursuant to s 116 of the PALTA transferred to the Tribunal.
20. By virtue of the TCAAJ Act, s 75 of the TASCAT Act was also amended and from that time it relevantly provided:

75. Nature of proceedings in review jurisdiction

- (1) The purpose of a review of a reviewable decision is to produce the correct or preferable decision.
- (2) Subject to subsection (6) , if an application for review is made to the Tribunal in respect of one of the following reviewable decisions, the review by the Tribunal of the reviewable decision is to be by way of a hearing de novo of the matter to which the reviewable decision relates:
 - (a) a reviewable decision under an Act, including any regulations or instruments made under such an Act, that is an Act in relation to which the functions and powers of the Tribunal are allocated under clause 3 of Part 8 of Schedule 2 to the Resource and Planning stream;
 - (b) a reviewable decision under an Act or a provision of an Act, including any regulations or instruments made under such an Act, that is specified in Schedule 4 .
- (3) Subject to subsections (4), (5), (6) and (7) and the provisions of a relevant Act, if a reviewable decision, to which an application for review made to the Tribunal relates, is a decision in relation to an Act, or regulations or an instrument made under an Act, that is not an Act to which subsection (2) applies, the review by the Tribunal of the reviewable decision is to be by way of a rehearing of the matter to which the reviewable decision relates.
- (4) On a rehearing, the Tribunal may have regard to, and give appropriate weight to, the decision of the original decision-maker.
- (5) Proceedings on a rehearing may include –
 - (a) an examination of the evidence or material before the decision-maker, unless any such evidence or material is to be excluded under another provision of this Act or under any other law; and
 - (b) a consideration of any further evidence or material that the Tribunal decides, in the circumstances of the particular case, to admit for the purposes of rehearing the matter.
- (6) In exercising its review jurisdiction in relation to a reviewable decision under a relevant Act –
 - (a) the Tribunal is to deal with a matter in accordance with this Act and the relevant Act; and

(b) has, in addition to the powers of the Tribunal under this Act, all the powers that are conferred by the relevant Act on the original decision-maker.

(7) The relevant Act may modify the operation of this Act in relation to a matter that comes within the Tribunal's review jurisdiction under the relevant Act.

21. Although s 75(2) indicates that the review by the Tribunal of a reviewable decision is to be by way of a hearing *de novo* of the matter to which the reviewable decision relates, this review basis only applies to matters allocated under cl 3 of Pt 8 of Sch 2 to the Resource and Planning Stream (s 75(2)(a), or to a reviewable decision under an act or a provision of an act including any regulations or insurance made under such act, that is specified in Sch 4 (s 75(2)(b)).
22. The PALTA is not specified in Sch 4.
23. The authorities are clear that amending legislation is only of prospective effects the substantive rights of the parties and will be of retrospective effect if it only affects the procedural rights of the parties see *MMI General Insurance Limited v Donnelly (No.2)* [2000] TASSC 163 at [7] and *Dykes v Bunnings Group Limited* [2015] ACTSC 141 at [18] - [26].
24. The complainant's appeal was lodged on 4 June 2024 well before the commencement of the TCAAJ Act on 1 July 2025. At the time of his lodgement of his appeal the basis of his review right was by way of a hearing *de novo* following the decision of Brett J in *Lawler v Real Estate Institute of Tasmania* (supra).
25. After 1 July 2025, as explained previously, the basis of the review right pursuant to the TCAAJ Act amendments became by way of a re-hearing.
26. Given the differing nature of a hearing *de novo* and a review by way of re-hearing, I consider that the substantive rights of all parties are affected by the legislative amendments vesting the review/appeal rights in the Tribunal rather than the PAT.
27. This has the consequence of making the review of the PAB's decision by the Tribunal one to be conducted by way of a rehearing of the matter to which the reviewable decision relates, pursuant to s 75(3) of the TASCAT Act, and not by way of a hearing *de novo*.
28. Sub-sections 75(4), (5), (6) and (7) clearly set out the way in which the Tribunal is to deal with this appeal lodged by the complainant.
29. As was stated in the joint judgment of Gleason CJ, Gummo and Kirby J in *Fox v Percy* [2003] HCA 22, 214 CLR 118, 77 ALJR 989:

The "rehearing" does not involve a completely fresh hearing by the appellant court of all the evidence. That Court proceeds on the basis of the record and any fresh evidence that, exceptionally it admits.

30. Although dealing with the review powers pursuant to s 72 of the *Anti-Discrimination Act 1998* (the ADA), in *State of Tasmania v Anti-Discrimination Tribunal & Others* [2009] TASSC 48, Porter J stated at [47]:

As a body carrying out an administrative task of review, the Tribunal is one whose “function is merely to do over again what the original decision maker did, working out, as a further step in administration, what it considers the decision ought to be.....deciding the matter by reference to the evidence before it and not the evidence before the decision maker” – *Comptroller – General of Customs v AKI* [1994] 50 FCR 511 at 521. Thus, when s 72 speaks of the Tribunal being satisfied or not that the Commissioner “made the correct decision”, it means that the question is whether the decision was the correct one on the material before the Tribunal. The extent of such material is to be governed by relevance. That is the interpretation which accords with the remedial nature of the legislation, and which better promotes its objects.

31. Such a comment is consistent with s 75(5) of the TASCAT Act.

Background facts

32. The complainant’s complaint arose for the period both prior to and during his tenancy at a property in Howrah which he occupied pursuant to a lease with another tenant. The complainant occupied this property between 5 July 2021 and on or about 5 February 2023. The complainant’s lease for the property was scheduled to expire on 3 July 2023.
33. In its decision of 21 May 2024, the PAB found the following facts in relation to the complainant’s allegations. These facts based the PAB’s decision to dismiss the complainant’s complaint.

The Property Agents Board’s findings

- (a) Failed to arrange for the large trees and shrubs to be maintained during the complainant’s tenancy.

The complainant initially requested that the trees at the front and back of the house be trimmed in an email to the Real Estate Real Estate Agency on 30 June 2001, which was prior to the complainant even moving into the property. This email was prompted by apparent concerns of the complainant regarding the trees and the state of an outdoor storage area that had residual waste from the prior tenant/s. The Real Estate Agency responded by acknowledging the email and stating that were a ‘number of requests and things’ to be done prior to him moving in. The complainant supplied photographs of the outdoor storage area. Examination of photographs contained within the entry condition report of 2 July 2021 do not appear to show any trees, shrubs or foliage of excessive size or intrusion, or positioned in a manner that might cause danger. The complainant signed the entry condition report on 6 July 2021, and did not mention the trees or any issues with the yard in the report.

On 6 November 2021, the complainant emailed the Real Estate Agency and requested that someone come to the property to ‘trim the trees and take care of the lawn’. A property representative (Luke Nettlefold) responded to this by reminding the complainant that he was responsible for the lawn and weeding,

and that the Real Estate Agency would contact the owner and request approval to have the 'larger bushes' attended to.

On 8 November 2021, the complainant requested again that the 'large bushes' be attended to, this time logging the matter on the 'Tapi' Property Maintenance Platform, with the accompanying message: *By the time this job happens I will be living in a jungle, what is happening.* Various actions appear on the software following this, showing that various employees of the Real Estate Agency had requested that the property was attended by a gardener only twice during his entire period of occupancy, and pruning request, stating on one occasion that he didn't have the right equipment as the real estate agent had not told him what was required. The complainant evidenced this by supplying messages between himself and his housemate. These messages are from conversations in February and September 2022 and are consistent with the claims made by the complainant.

No photographs of the offending vegetation during this period have been supplied.

On 14 October 2022, the complainant contacted a property representative (Nicola Gates) by email and advised her that a gardening contractor had contacted him regarding 'some work' at the property and that he had provided his schedule to the contractor, then heard nothing further. Ms Gates responded the same day advising that she would 'follow up' and 'keep him posted'.

On 2 November 2022, the complainant again contacted Ms Gates by email and requested follow-up about the garden maintenance. Ms Gates replied the following day, again indicating that follow-up would occur to have the matter actioned.

It should be noted that the complainant on two further occasions requested 'weeding and spraying' through the 'Tapi' platform, after it had been made known to him that this was his responsibility and that these requests on the platform were actioned as having not been scheduled, presumably for this reason.

The property agent was asked to supply invoices from the gardener with respect to all works carried out at the property during the complainant's tenancy.

This information was received from the property agent on 11 April 2024. The invoices indicate that gardening work was undertaken at the property on two occasions, on 11 January 2022 and 22 February 2022.

These invoices provide on sparse details about the actual work conducted at the premises, stating 'mowing' and 'mowing and gardening' and charging for 3 and two hours, respectively. This is consistent with the complainant's assertion that work was only undertaken twice during his tenancy, however, the invoices do not provide any conclusion as to whether the trees were trimmed per the complainant's request, or any further detail.

Additional detail was sought by contacting the contractor, Jim's Handyman by email on 22 April 2024 to confirm whether the trees were attended to. This request was not responded to.

When the complainant was approached to seek further clarify around why he wanted the trees trimmed, the complainant responded,

'As I moved in, the moss was taking over the outside walking path, the trees were very close to the power lines, and so on'

Again, examination of the entry report photos show that the trees were not in dangerous proximity to the power lines at the front of the house, the complainant did not mention this on the entry report and additionally made no mention of safety concerns about the powerlines in his numerous requests to have the trees seen to. The entry report shows excessive moss on the back pavers of the property, however the tenant signed the entry condition report and did not raise this as an issue and was advised by email on 8 November 2021 that the moss was part of the normal gardening and upkeep required of the tenants.

34.

(b) Failed to advertise the property after the complainant advised that he was breaking the lease, which resulted in the complainant being required to pay additional rent.

The Complainant advised the Property Real Estate Agency on 10 November 2022 that he may be required to exit the lease early, based on his personal circumstances. The Complainant was sent the requisite form to advise formally of his proposed exit from the lease and the proposed date of same.

The Complainant has evidenced that he emailed this form to the Real Estate Agency on 23 December 2022, and as previously stated, the Real Estate Agency Acknowledged receipt of this document on 30 December 2022. Clarification around the closure period of the Real Estate Agency has been sought to give fair consideration to the Real Estate Agency's operational capacity during Christmas Holiday Period. It can be concluded from the supplied documentation that the Real Estate Agency had at least monitored their inbox/es around or on 30 December. The Real Estate Agency reopened on 4 January 2023, but the closure date has not been established or addressed by the Property Agent.

Submissions from the Real Estate Agency on 4 April 2023 indicate that the Complainant *'returned the Break Lease form'* on 30 December 2022. This is inconsistent with evidence supplied by the Complainant. The Property Agent acknowledged in her second submission on 11 April 2024 that the break lease form was submitted earlier than 30 December 2023, however she stated that it was submitted on 20 December 2023. The Property Agent did not elaborate any further on the receipt of the form, the monitoring of communications during the holiday period, or the closure period.

The Property was advertised as available for rent on 25 January 2023, 34 days after the Complainant sent the form, and 27 days after receipt of the form was acknowledged.

An email dated 25 January 2023 between Ms Linda Gillie and the Complainant states that *'In response to your phone call, the Property has now been advertised. We are waiting on instructions from the owner.'* This email appears to assert that Ms Gillie was responsible for the re-letting of the Property, rather than the Property Agent.

The Property Agent indicated in her second submission that,

'...the reason we could not advertise the Property was due to the absolutely disgusting manner the house was left in by Mr. Favato, also the approved tenant did not leave the Property until sometime later, so we had to wait for him to vacate before the cleaning could be attended to. I do not have emails sent to admin staff in relationship to this unfortunately.'

35.

(c) Required the Complainant to pay an unreasonable amount for additional cleaning after the Complainant vacated the Property.

The Complainant is of the firm belief that he left the Property in an acceptable condition when he vacated. The signed entry condition report notes twelve (12) separate issues in the condition of the Property, none of which relate to cleanliness.

The Complainant employed the use of 'Jim's Cleaning' on 4 February 2023 to clean the oven and steam- clean the carpets at the Property at a cost of \$220.00. The Complainant completed the rest of the required cleaning duties on his own initiative.

In his submission, the Complainant supplied numerous photographs of the Property in a 'before and after' format, some of which are captioned to highlight matters within the photographs. The timestamps on these photos are consistent with both entry condition report and the photos taken when the Complainant cleaned the Property on 4 February 2023.

These photographs appear to show that the Complainant attempted to clean the Property, however, it cannot be determined solely by examining the photographs whether or not the Property was cleaned to any particular standard. These captioned photographs are clearly an attempt by the Complainant to show that the Property was left in good condition and that the charging of the Complainant for additional cleaning was excessive.

On 6 February 2023, the Property Agent sent an email to the Complainant with a list of matters that required attention and cleaning.

When comparing the list of items requiring attention against the photographs supplied by the Complainant, most of the individual items in the list, if photographed, are not photographed with sufficient detail to compare against the entry report, and the broader items on the list, for example 'windows have not been cleaned' and 'all window ledges' are not addressed at all by the Complainant.

The Complainant claimed his bond back in full prior to the Property Agent disputing the return of the bond. The Property Agent has not expanded on why a claim was not made on the bond within the required time frame, other than to say that, *'Mr. Favato claimed the bond before we received invoices.'* The Property Agent subsequently invoiced the Complainant for his rental arrears and the additional cost of cleaning. These monies were paid after being referred for collection.

It is the opinion of the Complainant that the Property was left in better condition than he found it, he fulfilled his obligation to leave the Property in the condition it was found, and he took all the necessary steps to complete this.

It is the opinion of the Property Agent that the Complainant left the Property in an 'absolutely disgusting' manner, and that the Property required the engaging of professional cleaners to the value of \$650 to bring it to the state in which it was entered.

The complainant's additional evidence

36. Subsequent to the lodgement of this appeal with the PAT on 4 June 2024, the complainant provided to the PAT a 109-page document outlining his arguments against the Board's decision, along with 84 photographs, copies of email correspondence and a further 64 photographs.

37. Having considered this material it is clear that:

- The 64 photographs (pages 87-109) were identical in format to what was supplied to the PAB in the original complaint;
- 84 additional photographs (pages 6-86) in addition to what had previously been provided all of which had been annotated with comments and some of which have been marked with arrows which were not present on the previously submitted versions in the complaint to the PAB;
- 36 of the original photographs appear to be in larger versions of a selection of the 64 originally submitted photographs;
- 52 of the original photographs were in larger versions of the photographs from the incoming condition report;
- 10 of the additional photographs were in larger versions of the originally submitted photographs and also from the incoming condition report; and
- 5 of the original photographs were not submitted with the original complaint to the PAB.

38. In accordance with directions from the PAT the complainant was given an opportunity to explain why the new material mentioned above could support a finding by the Tribunal that his appeal was made out. The complainant did this on 25 November 2024.

The second respondent's submissions of 1 May 2025

39. In the second respondent's written submissions of 1 May 2025, she seeks the dismissal of the complainant's appeal and a decision of the PAB to dismiss the complainant's complaint to be affirmed.

40. The respondent also referred to relevant legislation, being the *Residential Tenancy Act 1997*, particularly s 53 which is headed “Responsibility of Tenant for Cleanliness and Damage”. The second respondent then set out in detail their reasoning for the disputation of all of the complainant’s appeal.
41. In these written submissions under the heading “Further issues raised by the appellants in the appeal”, the second respondent also noted that:
- (a) The issue of “urgent repairs” was not before the Board at the first instance, and as such it is outside the scope of issues which the Tribunal can review in order to determine if the Board erred in a decision at first instance.
 - (b) That the nature of the claims made by the complainant are frivolous and vexatious and that as the second respondent has retired and is no longer a practicing property agent, she is not following up on the outstanding cleaning expense, does not plan to follow up the outstanding cleaning expense, and further, that the complainant has not paid the outstanding rent charge and the agent does not plan to follow up on the outstanding rent charge.
 - (c) The complainant claimed his bond back in full prior to the second respondent or the agency disputing the bond payment. This occurred because the complainant claimed the bond before any outstanding invoices were received by the second respondent or the agency.
42. In concluding their submissions, the property agent made application that her costs of the appeal be paid by the complainant.
43. On 3 July 2025, the complainant provided his responses to the property agents written submissions.

The basis of the PAB’s decision

44. In its decision of 21 May 2024, the PAB stated the following in relation to each of the complainant’s grounds of complaint:
- (a) There is little doubt that the complainant experienced frustration in relation to his repeated requests to have the trees trimmed, as he has evidence of numerous requests via both email and the ‘Tapi’ platform and expresses his frustration to his housemate in private messages exchanged between the two of them. The complainant has not supplied information that established that the trees required trimming, and the property agent is not the person to whom the requests were made for the attending to of the trees. Therefore, the trees not being trimmed to the satisfaction of the complainant cannot be reasonably attributed to the property agent.
 - (b) With consideration to this assertion (which is strongly disputed by the complainant), the holiday shutdown of real estate agencies and other necessary businesses to improve the state of the property, and the complainant’s intended departure date, it is reasonable that re-letting the property on the complainant’s behalf was part of a backlog of work with differing levels of priority.

- (c) The property agent conducted multiple inspections of the property for prospective tenants in the ten days between the advertisement date and the vacation date, when the complainant was still occupying the property. With consideration to the inconvenience that inspections create for an occupied property and the tenants, and the fact that property was in fact leased until 3 July 2023, the complainant was not impacted financially as severely as he might have been, should the property agent not have taken the steps that she did.

Consideration

45. Having considered all of the evidence before the PAB basing its decision of 21 May 2024, and having also considered the further material provided by the complainant and the second respondent, initially to the PAT and subsequently to the Tribunal, I am satisfied that the PAB made the correct decision to dismiss the complainant's complaint of the second respondent failing to act in a fair honest and reasonable manner.
46. It is clear that significant of the complainant's complaints were matters which were his responsibility as a tenant pursuant to s 53 of the *Residential Tenancy Act 1997*.
47. In regard to the complainant's allegation that the property agent failed to arrange for large trees and shrubs to be maintained during the complainant's tenancy, I am satisfied that it was the complainant's responsibility as tenant to maintain the garden and surrounds of the property this not being a property agents' responsibility. This had been advised to the complainant on multiple occasions by the property agent and the agency.
48. Neither in both his response explaining why his additionally submitted evidence was relevant and supported his case that the PAB had erred in dismissing his complaint, nor in his response to the second respondent's written submissions, has the complainant provided any further relevant evidence but has rather expressed opinions and made comments lacking evidentiary cogency.
49. It is clear, as indicated by the PAB, that the complainant had not supplied any information to establish that the trees required trimming, and the property agent was in any event not the person to whom the requests for this to occur were made.
50. With regard to the complainant's complaint the second respondent failed to advertise the property after the complainant advised he was breaking the lease, which resulted in the complainant being required to pay additional rent, the evidence is clear that the complainant leased the property with another individual who was an approved tenant. In November 2022, the complainant rang and advised the agency he wanted to break the lease. Following the usual practice staff at the agency where the second respondent was employed advised the complainant that he would need to go through the proper processes to break the lease which required completing a lease break form and advising the relevant date he was to move out. The notice was served on 23 December 2022 which was the last working day for the year of 2022. The initial form provided did not include the moveout date which was critical for the second respondent's agency to know to be able to advertise the property for lease.

51. I am satisfied that it was both unrealistic and unachievable for a new tenant to be approved and move into a leased premises the day after the previous tenants moved out. I am in agreement with the second respondent's submissions that it can take up to two weeks for this to occur because an agency needs to:
- (i) Review the conditions of the property after the previous tenant has moved out.
 - (ii) Review potential tenants.
 - (iii) Have potential tenants approved by the property owner.
 - (iv) Draft and finalise a new lease agreement.
 - (v) Attend to maintenance issues with the property.
52. Additionally, a further complication existed in that the co-tenant was still living at the property after the complainant had moved out. This was alluded to by the PAB in its decision where it noted that inconvenience is caused by inspections of properties when they are occupied by tenants.
53. The evidence before the PAB was clearly that the condition of the property at the time the complainant moved out was not at the requisite standard further delaying the property agent in finding a new tenant.
54. On the evidence, during January 2023 the property agent used a platform which provided her with details of potential tenants who had applied for a rental property within the previous two weeks and had been unsuccessful. This had the consequence of meaning that although the property had not been listed on websites such as Realestate.com, the second respondent was considering and reviewing potential tenants to take over the lease. New tenants were sourced and were in the property by 21 February 2023. With the complainant having vacated the premises by 5 February 2023, this was only approximately 16 days.
55. It is noted in the PAB decision when dealing with this ground of complaint that in its decision the PAB referred to the re-lease of the property as 3 July 2023. The PAB went on to state that the complainant was not impacted financially as severely as he might have been, should the property agent not have taken the steps that she did. This was clearly a date error only with the PAB referencing the end of lease date – 3 July 2023, rather than the date the property was re-leased as referred to on page 1 of the PAB's decision that being 21 February 2023.
56. Save for that error, the PAB's findings in this regard remain the same and do not indicate a substantive error on the PAB's part.
57. With regard to the complainant's allegations of being required to pay an unreasonable amount for additional cleaning after the complainant had vacated the property, I am satisfied on all of the evidence that the complainant made no mention of any issues with the cleanliness of the property in the property condition report which he signed on 6 July 2021.

58. On 6 February 2023, the property agent sent a letter to the complainant advising that there were cleanliness issues which needed to be addressed and none of the photographs of the property provided by the complainant some of which appear to have been taken after he vacated the premises address issues raised by the property agent in a letter of 6 February 2023.
59. There was further evidence of the poor condition of the property within the complainant's own submissions, this being the cleaning receipt completed by Impeccable Maintenance and Cleaning Services which illustrated the cleaning completed by that organisation to include "mold (sic) roof, and wood heaters mantelpiece (sic)".
60. The complainant's photographs in support of his complaint do not assist in addressing the further cleaning requirements as outlined in the property agents' letter to the complainant of 6 February 2023 or dispute the condition as in the condition report depicts the property was in a clean state at the time the applicant moved in in July 2021. Furthermore, at the time of signing the condition report the complainant raised issues with the standard of the garden. However, at no stage did he raise issues with the cleanliness of the property.
61. The complainant has provided no direct evidence by which comparison of the reasonableness or otherwise of these claimed cleaning charges could be assessed. There are also unpaid cleaning expenses which remain unpaid by the complainant, but these are not being pursued for payment by the second respondent.
62. For all of these reasons, I am satisfied that the PAB made the correct decision in finding that there was insufficient evidence to sustain the complainant's complaint and the second respondent had failed to act in a fair honest and reasonable manner.

Further matters

63. On page 4 of his appeal of the PAB's decision, the complainant raises an issue of "urgent repairs", in relation to a sliding door and lights.
64. I agree with the second respondent's submissions that the issue of urgent repairs was not before the PAB at first instance, and as such it is outside the scope of the issues which the Tribunal can review in order to determine if the PAB erred in its decision to dismiss the complainant's complaint.
65. On page 5 of his appeal of the PAB's decision, the complainant also asserts that he had an "understanding that the PAB had not touched any of his concerns regarding a breach of the *Residential Tenancy Act 1997*."
66. Having considered his complaint document, I am satisfied that no such allegation was before the PAB, and that this assertion is too, outside the scope of the issues reviewable by the Tribunal can review.

Costs

67. In the property agent's written submissions of 1 May 2025 an application for costs was made pursuant to s 111(1) of the PALTA.

68. Pursuant to s 111(2) of the PALTA, the cost provisions of the TASCAT Act do not apply in relation to proceedings under the PALTA.
69. Section 111(1) of the PALTA clearly provides the Tribunal with a discretion in relation to costs.

Determination

70. For all of the reasons set out above, I am satisfied that the PAB made the correct decision to dismiss the complainant's complaint. The PAB's decision of 21 May 2024 is affirmed pursuant to s 78(1)(a) of the TASCAT Act. The complainant's appeal is dismissed.

Orders

1. Pursuant to s 78(1)(a) of the TASCAT Act the decision of the PAB dated 21 May 2024 to dismiss the complainant's complaint is affirmed.
2. The complainant's appeal is dismissed.
3. The second respondent's application for costs is to be supported by written submissions not exceeding 4 pages and is to be filed with the Tribunal and served on the complainant within 21 days. If so, served the complainant will have 14 days to file and serve on the second respondent and the Tribunal written submissions not exceeding 4 pages in response to the second respondent's submissions. In the absence of service of written submissions from the second respondent supporting its application for costs in accordance with this order, the second respondent is to bear her own costs.