

Making a bond claim

Information for landlords

Rental Bonds Online

In July 2015 NSW Fair Trading introduced Rental Bonds Online (RBO), a new service to lodge, manage and refund rental bonds. You can find out more on RBO by visiting the Rental Bonds Online for private landlords web page. For more information on making a bond claim using RBO go to our Frequently asked questions for private landlords web page.

When the tenancy has ended and the tenant owes you money you can make a claim against the tenant's bond.

Reasons for claiming

The main reasons a claim can be made against the bond are:

- unpaid rent
- the reasonable cost of repairing damage to the premises, beyond fair wear and tear
- unpaid water usage charges, so long as you had requested payment within 3 months of receiving the bill
- any 'break fee' or other charges payable as a result of the tenant breaking the tenancy agreement early
- the reasonable cost of cleaning any part of the premises not left reasonably clean, having regard to how clean the premises were at the start of the tenancy
- the reasonable cost of having the barrel of the locks changed or other security devices replaced, if the tenant has failed to return all keys and security devices they were given.

This is not an exhaustive list. There may be other legitimate reasons for making a claim against the tenant's bond, such as the cost of disposing of goods left behind by the tenant. The claim must relate to a breach of the tenancy agreement by the tenant.

Fair wear and tear

Your tenant is not responsible for fair wear and tear to the premises. Fair wear and tear means the deterioration that occurs over time with the use of the premises even though the premises receive reasonable care and maintenance. Such deterioration could be caused by exposure, time or just by ordinary use. The tenant is only liable for negligent, irresponsible or intentional actions that cause damage to the premises.

These examples may help to explain the difference.

Fair wear and tear	Damage
Faded curtains or frayed cords	Missing curtains or torn by the tenant's cat
Furniture indentations and traffic marks on the carpet	Stains or burn marks on the carpet
Scuffed wooden floors	Badly scratched or gouged wooden floors
Faded, chipped or cracked paint	Unapproved or poor quality paint job
Worn kitchen bench top	Burns or cuts in bench top
Loose hinges or handles on doors or windows and worn sliding tracks	Broken glass from one of the tenant's children hitting a ball through the window
Cracks in the walls from movement	Holes in walls left by tenant removing picture hooks or shelves they had installed
Water stain on carpet from rain through leaking roof or bad plumbing	Water stain on carpet caused by overflowing bath or indoor pot plants
Paint worn off wall near light switch	damage to paint caused by removing posters stuck with blu tack or sticky tape

This means, for instance, you can lodge a claim against the bond for the cost of cleaning the carpet if it has been stained or left dirty. You should not lodge a claim if the carpet is clean and unstained, even if the carpet was new or professionally cleaned before the tenant moved in.

Paperwork required

If you intend to make a claim for part or all of the bond, you will need to fill out a claim form and lodge it with Fair Trading. The form sets out the different ways it can be lodged. Alternatively, call Fair Trading on 13 32 20.

It is best if you can get the tenant to agree with your claim and sign the form as well. That way, the bond can be paid without delay. If this is not possible, you should lodge the form without the tenant's signature as soon as possible with Fair Trading and send evidence of the claim to the tenant (see below).

Fair Trading will send a notice to the tenant giving them 14 days to either settle the matter with you or contest your claim by applying to the NSW Civil and Administrative Tribunal. That is why it is important that the claim form include the tenant's forwarding address (if known) or other contact details. If they do not apply to the Tribunal the bond will then be paid out as per your claim. If the tenant applies to the Tribunal the bond will be held by Fair Trading until the dispute is settled. You will then need to attend a hearing at the Tribunal and present evidence to back up your claim.

If the tenant lodges a claim for refund first without your signature, Fair Trading will send you a notice advising of the claim. You can either try to resolve it with the tenant or apply to the Tribunal within 14 days if you disagree. Make sure to notify Fair Trading that you have applied to the Tribunal, so that the bond can be held until after the hearing.

If you and the tenant reach a different agreement after one of you has lodged a claim, then a new claim form will need to be lodged with Fair Trading with both your signatures. Otherwise, the first claim lodged will be paid out after 14 days.

Once the bond has been paid out either you or the tenant can still apply to the Tribunal. There is a 6 month time limit to do this.

Providing evidence to the tenant

If you lodge a claim relating to the condition of the premises, without the tenant's signature, within 7 days you must send copies of the following to the tenant. Send the documents to their forwarding address (if known) or the rented premises address:

- the final condition report, and
- estimates, quotes, invoices or receipts for the work.

Copies of these documents also need to be sent to Housing NSW if that Department paid the whole or part of the bond. Failure to provide these documents within the time period required can lead to penalties being imposed, if you do not have a reasonable excuse.

Note: Do not send these documents or anything else except the claim form to Fair Trading.

At a glance

The table below lists the key differences between the old Act and the tenancy laws that began on 31 January 2011.

Old laws	New laws
No requirement to supply evidence to tenant supporting claims	New obligation to supply final condition report and copies of receipts, quotes etc
No guidance on what can be claimed from a bond	Non exhaustive list of matters which can be subject to a bond claim
No timeframe for bond disputes	Timeframe of 6 months from when bond paid out

www.fairtrading.nsw.gov.au
Fair Trading enquiries 13 32 20
TTY 1300 723 404
Language assistance 13 14 50

This fact sheet must not be relied on as legal advice. For more information about this topic, refer to the appropriate legislation.

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