

## Repairs and maintenance

As a tenant you have rights under the *Residential Tenancies Act 2010* and *Residential Tenancies Regulation 2010*. This factsheet explains the law in NSW about repairs and maintenance for rented premises.

### Your obligations

Under the terms of the standard residential tenancy agreement (your lease), you agree:

- to keep the premises 'reasonably' clean
- to tell the landlord about any damage or disrepair as soon as possible
- to leave the premises as near as possible to the condition they were in at the start of the tenancy, except for 'fair wear and tear'
- not to damage or permit damage to the premises deliberately or negligently - you are responsible for damage by anyone who you have allowed onto the premises
- not to add or remove any fixtures or do any renovations or alterations to the premises without the landlord's written consent (unless permitted under the tenancy agreement).

If you do not meet these obligations, the landlord may apply to the NSW Civil and Administrative Tribunal (NCAT) for order/s that you comply with your tenancy agreement, or to end your tenancy or for compensation.

### The landlord's obligations

The landlord agrees:

- to provide the premises in a 'reasonably' clean state and fit for your to live in
- to provide and maintain the premises in 'reasonable' repair – even if the landlord/agent told you about any disrepair at the premises before you moved in.
- to make any repairs referred to in the original condition report.

'Reasonable' repair depends on the age of the premises, the amount of rent you pay and the potential life of the premises.

The landlord is not required to fix any damage that you cause. However, if they later want to claim compensation from you for that damage they must try to limit the cost of any repair or replacement. Contact your local Tenants Advice and Advocacy Service for advice about this.

### Urgent repairs

*Urgent repairs* means any work needed to repair any of the following:

- a failure or breakdown of the gas, electricity or water supply

- a failure or breakdown of any essential service for hot water, cooking, heating, cooling or laundering
- any fault or damage that makes the premises unsafe or insecure
- serious damage from a natural disaster.

Examples of damage include:

- a burst water pipe
- an appliance or fixture (such as a tap) that is not working or broken and is causing a substantial waste of water
- a blocked or broken toilet
- a serious roof leak
- a gas leak
- a dangerous electrical fault
- flooding or serious flood damage
- serious storm or fire damage

**Getting urgent repairs done** Tell the landlord/agent – in writing if possible – about what needs fixing. Follow up any conversations with a letter. Keep a copy of the letter and a record of any conversations as evidence that you told the landlord/agent.

If there is no electricity or water it may be up to the service provider to fix the problem (if it is outside the boundary of the premises). See also Factsheet 23: *Utilities*.

If the landlord/agent cannot be contacted or is unwilling to do any urgent repairs, or if they are taking too long to do them, you can arrange for the repairs to be done. Do not pay any more than \$1,000 or you may not get your money back – the landlord is only required to pay you for any reasonable costs up to \$1,000. They are obliged to pay within 14 days of your notice.

You must be able to show that:

- the problem was not your fault
- you made a 'reasonable' attempt to contact the landlord/agent
- you gave the landlord/agent a 'reasonable' chance to do the repairs
- the repairs were carried out by a repair person named in your tenancy agreement (if possible) or by a licensed or qualified tradesperson.

You must give the landlord/agent written notice about the repairs, costs and copies of receipts.

If the landlord does not pay, apply to the Tribunal within 3 months from the end of that 14 days for an order that they do so.

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If you cannot afford to pay for urgent repairs, apply to the Tribunal for an urgent hearing for the repairs to be done. You can also apply for a rent reduction until the repairs are done. See 'Applying to the Tribunal' below.

### Getting other repairs done

Tell the landlord/agent in writing what work needs to be done and by when – give a clear deadline. Keep a copy of the letter and a record of any conversations as evidence that you told the landlord/agent. If you deal with an agent, you can also:

- write details of the problem in the agency's complaint book
- contact the licence holder (the principal or manager) of the agency
- contact your landlord directly.

**Undertaking repairs yourself** You must have the landlord's prior consent before undertaking non-urgent repairs or maintenance. Ask the landlord to pay you for any costs. Get their consent and agreement to pay in writing.

### If the landlord does not do repairs

- Keep paying your rent. A 'rent strike' is a breach of your tenancy agreement, and the landlord may take steps to end your tenancy.
- Apply to the Tribunal for order/s – see below.

### Applying to Tribunal

You can apply for one or more of the following orders if you are having difficulties regarding a non-urgent repair (see above for how to deal with an *urgent repair*):

- a) that the landlord do the repairs you have specified
- b) that the landlord compensate you for losses you suffered because they did not do the repairs
- c) that all or part of the rent is paid to the Tribunal until the repairs are done
- d) that the rent is reduced for the period that the premises are/were in disrepair.

For (a), (b) and (c) you must apply within 3 months of the landlord failing to meet your deadline for repairs.

For (d) you must apply before the end of the tenancy.

See Factsheet 11: *NSW Civil and Administrative Tribunal* and contact your local Tenants Advice and Advocacy Service for help to make an application.

**Orders for repairs** You must be able to show that:

- the premises were not in reasonable repair
- you told the landlord/agent about the need for the repairs (e.g. you wrote to them) or they ought to have reasonably known about it (e.g. they inspected the premises)
- the landlord/agent did not make a reasonable effort to have the repairs done.

**Compensation** You can apply for an order that the landlord compensate you for economic loss. For example:

- You had to spend money on take-away food because the landlord failed to fix the stove.
- Your belongings were destroyed or damaged because the landlord failed to fix a leaking roof.

You must be able to show that your loss was caused by the landlord's failure to do the repairs.

You also need to show that you attempted to limit the cost to you of the damage (e.g. reducing water damage to your furniture by moving it from under a leak) otherwise the Tribunal may not order compensation.

The Tribunal can order up to \$15,000 compensation.

**Rent to be paid to Tribunal** The Tribunal will usually only consider this order when the landlord has not complied with a previous repairs order. You can include it in your application, in case you have to return to the Tribunal later.

**Rent reduction** The Tribunal may make an order that the rent is, or was, excessive due to a reduction or withdrawal by the landlord of any goods, services or facilities provided with the premises.

For example: The landlord fails to repair a broken-down hot-water system. Apply for an order that the rent was excessive for the time you were without hot water.

If the Tribunal finds the rent is excessive, it will make an *excessive rent order*. It will specify:

- the amount that the rent must not exceed
- the day from which this maximum rent applies – for a period of up to of 12 months.

See Factsheet 04: *Rent increases* for how to prepare an excessive-rent case. *Factsheet updated April 2019*

**For free tenancy advice, call your local Tenants Advice and Advocacy Service:**

#### SYDNEY:

- Eastern 9386 9147
- Inner 9698 5975
- Inner West 9559 2899
- Northern 9559 2899
- Southern 9787 4679
- South West 4628 1678
- Western 8833 0933

#### REGIONAL:

- Blue Mountains 4704 0201
- Central Coast 4353 5515
- Hunter 4969 7666
- Illawarra Sth Coast 4274 3475
- Mid Coast 6583 9866
- Northern Rivers 6621 1022
- Northwest NSW 1800 836 268
- Southwest NSW 1300 483 786

#### ABORIGINAL:

- Sydney 9833 3314
- West NSW 6881 5700
- South NSW 1800 672 185
- North NSW 1800 248 913

**WEBSITE:** tenants.org.au

**NSW FAIR TRADING:** 13 32 20

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