

Compensation from tenants

ALAN KNOWSLEY
LEGAL MATTERS



We are often asked whether a landlord can claim compensation for damage from their tenant.

In a recent example, a group of friends had been flatting together for a few years.

During a recent inspection their landlord discovered that the tenants had been manufacturing methamphetamine in the flat. The tenants were evicted and the landlord is now seeking compensation from them to pay for the damage caused to the flat.

In order to claim compensation for damage from a tenant, a landlord must establish that the damage to the rental property occurred during the tenancy, and is more than fair wear and tear.

When will a tenant be liable?

A tenant will be liable for intentional damage done by them or a person they allowed onto the property. However, a tenant will not be liable for damage if they can prove that it was not intentionally caused by them or a person they allowed onto the property.

In a recent case the tenants left a pot to boil on the stove with dinner cooking. The pot caught on fire and set fire to the kitchen, causing extensive damage.

The court held that the tenants could not be sued as the damage was not intentional.

Landlord insurance – does this cover damage that is careless but not intentional?

Usually the landlord's insurance will cover unintentional damage caused by the tenant. But significantly, where a tenant, or someone they allowed on to the property, has intentionally damaged the property, this will usually not be covered by the landlord's insurance policy.

The landlord must disclose to the tenant whether or not any careless (but not intentional) damage is covered by their insurance.

If it is covered, the tenant is not required to pay for the damage, pay for the excess of any insurance claim, or repair the damage to the property.

What if the landlord does not have insurance?

If the landlord is not insured, they can apply to the Tenancy Tribunal for a work order, to assess whether the tenant can be



Damage by tenants is a thorny issue.

PHOTO: SIMON MALUDE / FAIRFAX NZ

The landlord must disclose to the tenant whether or not any careless damage is covered by their insurance.

made to remedy the careless (but not intentional) damage.

The group of friends who manufactured methamphetamine in their flat will most likely be liable to pay their landlord compensation because the

damage is more than fair wear and tear and was done "intentionally" (probably recklessly) during their tenancy.

If you are a residential tenant or landlord and are concerned about damage to a rental property, you should make sure you have the insurance you think you have by talking to your broker and also getting experienced legal advice.

What if a landlord rents a methamphetamine-contaminated property?

If a landlord rents a methamphetamine-contaminated

property (even unwittingly), the tenant can recover compensation from the landlord for any rental paid and any damage to the tenant's property.

It pays to do a methamphetamine contamination test at the property regularly – at the start and end of each tenancy and during a tenancy if your tenancy agreement allows.

Column courtesy of RAINEY COLLINS LAWYERS phone 0800 733 484. If you have a legal inquiry you would like discussed in this column please email Alan on aknowsley@raineycollins.co.nz.

Harcourts

AUCTION

Aotea 15 Kepler Way

4 3 2 2

Low Maintenance Living In Aotea! - Auction

Located on a back section in a secluded street with other elite homes, this is sure to be a popular choice. Built by Harris Construction, the fabulous layout offers large open plan kitchen, dining/family area plus separate formal lounge and study nook. Master bedroom with HUGE walk through wardrobe and ensuite with fully tiled shower and underfloor heating plus further 3 double bedrooms, one with own ensuite and family bathroom. Well thought out with internal vacuum system, instant hot water tap in kitchen, double glazing, ducted heat pump and fantastic storage.

Cooking will be a pleasure in the stunning kitchen or enjoy indoor/outdoor flow from the living area to covered Alfresco and flat fully fenced yard... bathed in sunshine! Pre-purchase builders report will be available.

Auction

Thursday 9th February @ 12 noon, Harcourts Auction Rooms, Paraparaumu (will not be sold prior) View Sunday 1.00 - 1.30pm www.harcourts.co.nz/PE7730

Marty Ritchie
M 027 548 0480 P 0800 DO IT NOW
marty.ritchie@harcourts.co.nz
Team Group Realty Ltd Licensed Agent REAA 2008

