

RESOLVING COMMON TENANCY DISPUTES

Resolving Tenancy Disputes

NT Consumer Affairs is often asked to give advice in disputes between tenants and landlords/real estate agents.

The most common complaints are about:

- access to the premises by the landlord/agent;
- maintenance of the property; and
- withholding security deposits.

The following guide will help you to avoid or resolve disputes:

Access to the Premises by the Landlord/Agent

If the landlord/agent wants to visit your rented accommodation, they must have a valid reason and they must give you the correct amount of notice. Valid reasons are:

- to collect rent. They cannot enter more than once a week and must give you seven days' notice;
- to inspect the place. They cannot enter more than once every three months (unless the tenancy agreement says otherwise). You must be given at least seven days' notice;
- to carry out or inspect repairs or maintenance on the property. You must be given 24 hours' notice;
- in an emergency or to protect the premises from damage. No notice is required; or
- to show the place to a prospective tenant or purchaser. You must be given 24 hours' notice.

The landlord/agent can only enter the premises in the presence of or with the approval of the tenant. Inspections must be scheduled for a mutually convenient time between the hours of 7am and 9pm.

If the landlord/agent is living nearby they must be careful not to infringe on your privacy.

Should the landlord/agent insist on access to the premises without the right amount of notice they are breaking their agreement with you. You should contact Consumer Affairs for advice.

Maintenance of the Property

While you are living in the premises, you need to:

- keep the place clean;
- report to the landlord/agent any maintenance required or damage to the property, preferably in writing, and take responsibility for any damage to the property that you or your guests intentionally or negligently cause; and
- not change, remove or add a lock or security device without the consent of the landlord/agent unless you have a reasonable excuse like the locks being forced and destroyed because of a burglary.

The landlord/agent is responsible for maintaining the place in a reasonable state of repair and the landlord might need to repair things while you're living there.

Problems with health services such as sewerage, water supply, power, refrigeration and cooking facilities should be attended to within five business days of your advising the landlord/agent in writing. Repairs to make premises habitable and safe should be attended to in seven business days.

If you were responsible for the damage, you'll have to pay. But if the damage was due to fair wear and tear, the landlord/agent will have to pay for the repairs.

You should only install new fixtures and fittings to the place (like window locks, security doors and new taps) with written permission from the landlord/agent. The landlord/agent should outline what changes have been approved and any terms to the agreement (like whether you have the right to remove them when you leave).

If you change, alter or add a lock or security device without written permission from the landlord/agent you must have a reasonable excuse to do so and provide a key to the lock or security device to the landlord/agent within two business days of the change, alteration or addition.

If you install a fitting or make a change to the place without getting the landlord/agent's agreement, the landlord/agent has two options:

- they can treat it as a breach of the tenancy agreement and go through the process for resolving a breach; or
- they can tolerate the breach and accept it as an improvement to the premises that they will keep when you leave.

If you have the right to remove any fittings you've added you must pay for the repair of any damage caused by their removal.

If maintenance is not attended to by the landlord/agent you should contact Consumer Affairs for advice.

Withholding the Security Deposit

Within seven business days after you have left the premises the landlord/agent must return the security deposit to you other than any amount that the landlord/agent may retain.

The landlord/agent may retain the security deposit for the following purposes:

- to make good any damage to the property, other than reasonable wear and tear, which you are responsible for;
- to replace any item that is included in the premises that is lost or destroyed and the tenant is responsible for its loss or destruction;
- to clean the premises if it is left unreasonably dirty;
- to replace locks that were altered, removed or added by the tenant without the consent of the landlord/agent;
- to pay for any unpaid rent or for any unpaid electricity, gas or water charges payable by you; and
- to pay compensation to the landlord/agent if you remain in the property when you should have given back possession to the landlord/agent.

For the landlord/agent to retain any or all of the security deposit they must give a notice to you within seven business days of you having left the premises. They must tell you how much they are keeping, what it is for and attach receipts and other supporting documentation to support their claim. They must also include the balance of the security deposit they are not claiming. This notice is sent to the last known address so ensure you have given a forwarding postal address to the landlord/agent.

If you disagree with any or all of the security deposit being retained by the landlord/agent you may contact Consumer Affairs for advice.

Damage to Premises or Ancillary Property

The landlord/agent is not entitled to retain any or all of the security deposit to pay to make good damage or replace lost or destroyed items unless a completed, signed condition report was provided to you no later than three business days after you took possession of the premises.

Even then, tenants and landlord/agents must distinguish between damage through neglect or abuse and general wear and tear.

Premises Left Unreasonably Dirty

The landlord must not retain any or all of the security deposit for cleaning the premises unless a condition report was completed and accepted by you at the beginning and end of the tenancy. If the premises needs cleaning the Landlord/Agent must provide the tenant with receipts and other supporting documentation to support their claim

Points to Remember

It is up to the landlord/agent to prove any claim against the security deposit, including damage to property and the need for cleaning.

Don't take the matter into your own hands by paying less rent or no rent; if you do this you are breaking the tenancy agreement and you could be evicted.

Do keep records of your rental payments; it may help to avoid a dispute in the future.

Do try to keep all communications with the landlord/agent in writing and keep a log of all your telephone conversations and meetings detailing the date, time, duration and what was discussed.

It is recommended that you keep copies of the tenancy agreement, condition reports, rent receipts, rent books, bank statements etc. or other any supporting paperwork.