



Seasonal maintenance at rental properties

As cooler and wetter weather approaches, property managers should consider reminding their lessors to undertake pre-emptive seasonal maintenance. Preventative measures can decrease the incidence of damage to premises as a result of weather conditions.

Under the *Residential Tenancies Act 1987* (the RT Act), a lessor is required to [maintain the rental premises](#) in a reasonable state of repair, keeping in mind its age and character. The lessor must ensure the premises complies with all building, health and safety requirements that apply as well as ensuring that repairs are undertaken within a reasonable period of time.

The RT Act requires the tenant to keep the rental premises within a reasonable state of cleanliness as well as not intentionally or negligently causing or permitting damage to the premises. The tenant is also required to notify the lessor or property manager of any damage caused to the premises as soon as practicable. The Department of Commerce (the Department) suggests the method of notice be in writing, except in urgent circumstances where a telephone conversation with the property manager occurs in the first instance and is then followed up in writing.

The Department suggests that property managers encourage their lessors to undertake more frequent cleaning of gutters and pruning of branches which overhang the property's roof so as to reduce the risk of the overflow of rainwater into the property during storms.

In recent years, the Department has noticed a trend in enquiries from tenants and lessors relating to mould issues at tenanted properties in the lead up to and during the winter months. During the period of September 2013 to September 2014, the Department received 409 enquiries relating to mould issues, of which 73% came from tenants.

Mould is a type of fungi which is formed from organic material and moisture, which when dried out or disturbed, can release spores which can cause illness in some people. Mould can also cause structural damage if not treated.

Should dampness or mould issues arise, the remedy of the situation will fall to the responsible party but a joint effort may be beneficial.

It is suggested that property managers remind tenants of the need to adequately aerate the property during winter despite cold temperatures.

Depending on the circumstances, in a rental premises, the state of disrepair caused by mould could be a breach of the residential tenancy agreement by either party to the agreement. For example if the tenant fails to properly aerate the bathroom after use, mould can develop on bathroom surfaces. In such circumstances the tenant may be in breach of their tenancy agreement for negligently causing damage. Similarly, if the tenant notifies the property manager that there are signs of dampness to a wardrobe wall that backs onto the bathroom plumbing and the lessor fails to take action to eradicate the issue, mould may develop in the affected space. The lessor may be in breach of the tenancy agreement for failing to maintain the premises and failing to carry out necessary repairs.

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If damage is caused to the premises or belongings, the affected party can seek to obtain an order from the Magistrates Court for compensation. The affected party must bear in mind that while the other party may be at fault for causing the damage, the affected party must make every reasonable effort to mitigate their own losses. For example, the tenant should remove their clothing from a wardrobe where mould is growing to stop the clothing from being damaged or the lessor should promptly attend to any reports of dampness before mould can grow.

The RT Act does categorise urgent repairs to determine what is considered a reasonable period of time. Further information on urgent repairs can be viewed [here](#).

If property managers encounter a lessor who is reluctant to carry out necessary works, the property manager should consider advising the lessor of the possible consequences should damage occur, including potentially being in breach of the RT Act. The lessor may find that they be ordered by a Magistrate to pay compensation to the tenant for any damaged goods as well as reimbursement of or reduction of rent during the period the issue was notified to when it was properly repaired. The tenant may also seek compensation for other losses incurred by the failure to remedy the situation such as medical costs or loss of income.

Information on mould, including how to remove it, can be found within the Department of Health's publication, [Mould and Condensation in your Home](#). The Building Commission publication, [Ventilation in buildings](#), may assist lessors with properties that may have ventilation issues.

Additional information on maintenance and repairs within a rental premises can be viewed on the Department's [website](#).

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