

Landlord and tenant

Landlords and tenants need each other. There is no point in being a landlord who has no tenants and tenants would have nowhere to live if there were no landlords.

Landlords and tenants can get along well as long as they both carry out their basic responsibilities. The golden rule for both tenants and landlords is to put yourself in the other party's position and consider what he or she would expect of you.

The law's task is to balance landlords' and tenants' rights and duties in a way that is fair to both sides. If the law makes it unattractive for people to be landlords, there will be too few landlords and the shortage of rental housing will push rents up. But if tenants' rights are disregarded, rental properties could become substandard.

Tenancy Services, a free government service, helps both landlords and tenants impartially, giving advice and information. It provides mediators and administers the Tenancy Tribunal.

Because both landlords and tenants often need help urgently, a special "fast-track" court, the Tenancy Tribunal, deals with landlord/tenant problems. There is a \$20.00 filing fee.

A tenant's responsibilities are to:

- Pay the rent on time
- Avoid damaging the property
- Keep the property reasonably clean and tidy
- Tell the landlord quickly about any damage or need for repairs
- Avoid using the property for an illegal purpose (such as a "P" lab)
- Respect neighbours' and other tenants' peace and privacy.
- Avoid letting "extra" people live in the premises.
- Move out when the tenancy ends, leaving the property reasonably clean and tidy and removing all possessions and rubbish.
- Return all keys
- Leave behind anything belonging to the landlord
- Avoid making alterations without the landlord's consent.

A landlord's duties are to:

- Let the property in a reasonable state of repair and cleanliness.
- Obey all health, safety and building laws.
- Provide and maintain reasonable locks.
- Compensate the tenant for the reasonable cost of any repairs the tenant has to make if they are serious and urgent or necessary to avoid injury and the tenant has told (or tried to tell) the landlord about the need for repair.
- Pay the bond to Housing New Zealand.
- If necessary see that other tenants let the tenant have reasonable peace and privacy.
- Avoid interfering with the gas, electricity, water or telephone (unless it is necessary to avoid danger or make repairs).

The worst thing that tenants can do is to cause substantial damage. Assaulting or threatening to assault the landlord runs a close second. In either case, the Tenancy Tribunal will quickly order eviction. Getting behind in the rent is a grave mistake. If the rent falls three weeks in arrears, the landlord can get an eviction order swiftly.

Another cardinal sin is annoying the neighbours (e.g. by having noisy parties, a dangerous dog or throwing rubbish over their fences). Even if your landlord would sooner have you stay, he or she will have to serve a "10 day letter" on you and make you leave (if necessary, by getting a Tenancy Tribunal order).

The worst things landlords can do are letting unsafe, unhygienic or ramshackle properties, failing to do urgent repairs (particularly if they involve sewage or flooding problems) or entering without notice – tenants must be allowed privacy.

If tenants leave their goods behind, landlords should store them and apply to the Tenancy Tribunal for sale or disposal orders – even if the goods look as if they should go straight to the dump. If the tenants owe rent, or damage has been done, the landlord can get an order for the rent arrears and/or cost of repairs. Landlords who get sale orders must pay the money from the sale to Tenancy Services. The amount of the order compensating for rent arrears or damage will be paid back to them.

Written tenancy agreements are compulsory, so landlords should get the right one from Tenancy Services (or from their lawyers). Landlords can ask for a bond of up to four weeks' rent and for the rent to be paid two weeks in advance. The bond must be paid to Housing New Zealand. Rent records must be kept. After all, landlords cannot prove that the rent is in arrears without records.

So you are keeping your side of the landlord/tenant contract, but the other side is not. You would be best to talk to the other person politely about the problem. If that does not work go to Tenancy Services and try to sort it out by mediation – it is free and can result in a legally binding mediated order. If mediation fails, you can apply to the Tenancy Tribunal for a hearing.

If you have any concerns in this area or would like to know more, contact your solicitor.

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