

A message from your Property Manager

September 2019



Residential Tenancies No2 Act

Now passed and fully effective from 27th August 2019. This legislation removes the ridiculous result of the Osaki decision which meant that for the past 3 years landlords had to pay when tenants damaged their properties. Also, there are law changes around Meth testing, and illegal dwellings.

We need to know your insurance excess

From now on tenants will again be liable for their own mistakes unless the damage they cause is accidental. So a car crashes into a fence = accidental damage and landlord pays insurance excess and fixes. Tenant keeps dog inside and it fouls the carpet = careless damage and tenant pays. The only grey area is around the difference between careless and accidental damage. e.g. tenant leaves a glass of red wine on the table, it spills and stains the carpet. We would argue the tenant should not leave red wine near carpet, they would argue accident.... the Tribunal would decide.

In any case the maximum the tenant will have to pay for damage is 4 weeks rent or the landlords insurance excess, whichever is smaller, after that you have to claim against your insurance. You might want to review your policy and lift your excess a bit depending on how much premium it saves. Landlords will now have to supply their insurance excess amount to be included in all new tenancy agreements (**so email your insurer name and excess amount to us now please**). You have to let us know if the excess changes or.... you guessed it... \$500 fine for wrong information. Tenants have the right to request a copy of your insurance policy, but we doubt this will happen often.

Meths testing

This just formalises the rules around access & information. The main thing is that the new much higher Gluckman levels of meth contamination required for there to be a problem, are now formalised. From now on this scourge of meth testing is basically over, and only meths labs continue to be an issue, a risk which is minimal as long as regular inspections are done.

Illegal dwellings

Much more useful, and not in the way the media has portrayed. This part of the law actually makes it safer for landlords if it turns out some (or all) work is non-consented. In the past the Tribunal has decided that they have no jurisdiction over such illegal dwellings, and ordered the full amount of rent refunded. This has since been modified by landlords taking cases to higher courts, but this legislation makes it clearer that the Tribunal has jurisdiction and can look at the facts of each case.

The current decisions coming out of the Tribunal are now examining the state of the property rather than whether or not everything is legally consented. This is great for 'granny flats' or when a consent or CCC has not been obtained, as the risk of a full rent refund is much diminished. But it makes sense to immediately comply with the Healthy Homes legislation if you have any concerns. Attached find some recent decisions where penalties and refunds have been minor, or not given at all.