

Unhinged doors, scratches, chips and water damage



Bond Special: Cupboards

Information for Tenants

WHAT ARE MY OBLIGATIONS?

The tenant must return the premises to the landlord as nearly as possible in the same condition as set out in the ingoing condition report, part from reasonable wear and tear.

WHAT IS REASONABLE WEAR AND TEAR?

Living in a home will cause wear and tear through ordinary day to day use and/or natural forces. This is what is meant by “reasonable wear and tear”.

Damage that is caused by your intentional, negligent or careless actions is not reasonable wear and tear.

In determining whether damage to cupboards is reasonable wear and tear, the Residential Tenancy Commissioner will consider a range of factors including:

- the age, quality and condition of the item at the beginning of the tenancy;
- the length of the tenancy;
- the size, extent and noticeability of the damage;
- the cause of the damage;
- the average lifespan of cupboards. According to the Australian Taxation Office, cupboards depreciate at 2.5 per cent per annum however life span depends on normal use, materials etc.

Please be aware that you are also responsible for damage caused by guests that you have invited onto your property.

EXAMPLES OF WHAT IS REASONABLE WEAR AND TEAR

None of the following decisions are binding on the Residential Tenancy Commissioner or the Magistrates Court of Tasmania, though they might provide a guide as to how your case may be decided. Any decision will be highly dependent on the specific circumstances of your case.

| ITEM | DECISION | CASE |
|--|--|---|
| Chips to cupboard door | Significant chips to a laundry cupboard is <u>not reasonable wear and tear</u> | <i>Murphy v Woods (Tenancy)</i> [2010] NSWCTTT 609 |
| Scratches on kitchen cupboard doors | Damage to the kitchen cupboards caused through normal use of the kitchen so is <u>reasonable wear and tear</u> | <i>Fournaris v Andrews (Tenancy)</i> [2009] NSWCTTT 583 |
| Cupboard door falling off | Cupboard door needed to be re-hinged after falling off during tenancy. It was considered reasonable wear and tear as the ingoing condition report noted that door was ‘cracked, scuffed and does not close properly’ | <i>Argyle Community Housing v Nation Pty Ltd (Tenancy)</i> [2009] NSWCTTT 233 |
| Water damage to kick board | Despite cometic water damage the laundry door is still functional so tenant does not have to pay for replacement cost | <i>Murphy v woods (Tenancy)</i> [2010] NSWCTTT 609 |

| ITEM | DECISION | CASE |
|--|---|---|
| Cupboard shelf partly eaten away by acid | Despite small amount of damage there was no functional loss as cupboard did not have to be replaced. Claim was dismissed | <i>Bitkin v Kinna (Residential Tenancies)</i> [2018] VCAT 851 |
| Cupboard that had 'fallen to bits during tenancy' | Any deterioration was reasonable wear and tear because at least eight years old and 'on the lower end of the range for quality and durability'. Claim dismissed | <i>Shaw v Buziuk (Residential Tenancies)</i> [2015] VCAT 240 |

EVIDENCE YOU SHOULD PROVIDE IN A BOND CLAIM OR DISPUTE

The onus is on the landlord to prove that the tenant has caused the damage to the cupboards and that they have suffered loss as a result. However, the tenant can and should provide their own evidence and arguments in support of their case.

If the landlord alleges damage to cupboards the tenant can argue that:

- They did not cause the damage;
- There is damage, but it is reasonable wear and tear;
- If there is damage and that is the tenant's responsibility that the amount claimed by the landlord is unreasonable because it is not supported by the evidence.

| ARGUMENT MADE | EVIDENCE NEEDED |
|--------------------------------------|---|
| No damage | <ul style="list-style-type: none"> • Ingoing Condition Report • Outgoing condition report • Photos and/or video from start and end of tenancy |
| Reasonable wear and tear | <ul style="list-style-type: none"> • Evidence of the length of tenancy • Evidence of the number of people living in the property • Evidence of household composition (eg adults, children, elderly people) • Evidence of the age of the carpet • The ingoing condition report/ photos demonstrating the condition of the carpet at the beginning of the tenancy • Photos demonstrating that damage not excessive |
| Landlord's claim is excessive | <ul style="list-style-type: none"> • Cheaper quotation/s from different suppliers • Receipts demonstrating that repairs/ cleaning were carried out • Evidence demonstrating the extent of damage • Evidence demonstrating the impact of the damage on the function of the carpet • Evidence of the age of the item. According to the Australian Taxation Office, cupboards depreciate at 2.5 per cent per annum, however lifespan depends on normal use, materials etc |