

Scuff marks? Repainted wall? Chips in doorframe?



Bond Special: Walls & Paint

Information for Tenants

WHAT ARE MY OBLIGATIONS AT THE END OF A TENANCY?

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, apart 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 known as "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 the walls and paint is reasonable wear and tear, the Residential Tenancy Commissioner will consider a range of factors including:

- the age, quality and condition of any item at the beginning of the tenancy;
- the average lifespan of the item;
- the extent and noticeability of the damage;
- the number of tenants and household composition;
- the length of the tenancy;
- the impact of the damage on future tenancies.

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 may 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 |
|---|--|---|
| Minor scuff mark or marks on walls | Minor scuff marks or marks left on walls from furniture or kids' writing on wall <u>was reasonable wear and tear</u> | <i>Elhassan v Ayoub</i> [2018] NSWCATAP 34 |
| Minor scratches on walls and doorframes | Ordinary use of the house by a family with children resulting in minor scratch marks on walls and doorframes in the heavily trafficked areas of the house <u>is reasonable wear and tear</u> | <i>Bakeer v Hariri; Hariri v Bakeer</i> [2021] NSWCATAP 196 |

**Tenants'
Union of
Tasmania**

The information in this fact sheet is not legal advice. It is intended as a guide only. For information regarding a specific tenancy problem, please phone the Tenants' Union on (03) 6223 2641. The Tenants' Union of Tasmania accepts no responsibility for actions based on this information, nor for actions based on electronic translations of this information.

Bond Walls & Paint: Examples



| ITEM | DECISION | CASE |
|---|---|---|
| Marks on walls | Marks on the wall of bedroom <u>was reasonable wear and tear</u> because they could easily be cleaned | <i>Akhtar v Chowdhury</i> [2019] NSWCATAP 243 |
| Stains on wall | Stains on a wall which the landlord believed to be caused by the tenant's dog, which the landlord allowed the tenant to keep on the premises <u>is reasonable wear and tear</u> | <i>Buckland v Goodwin (Tenancy)</i> [2009] NSWCTTT 685 |
| Damage to walls caused by mould | Extensive damage to the wall outside bathroom due to mould was <u>beyond reasonable wear and tear</u> | <i>Akhtar v Chowdhury</i> [2019] NSWCATAP 243 |
| Dent in wall | Dent in wall caused by opening of door where wall is touched due to no doorstop <u>is reasonable wear and tear</u> | <i>Hosseini v Charmoun</i> [2021] NSWCATCD 3 |
| Hole in wall | Some scratches, dents and chips will occur to walls and exposed corners of walls, doors and door frames during the course of normal use of a property. But, a gouge to the corner of a wall that leaves a hole is <u>not consistent with reasonable wear and tear</u> | <i>Chandra v Masterman (Residential Tenancies)</i> [2017] ACAT 90 |
| Painting by tenant | Walls painted in a colour/s without landlord's consent <u>is reasonable wear and tear</u> when tenant has lived in property for ten years and ingoing condition report showed most walls dirty and marked | <i>Weber v Franks (Tenancy)</i> [2002] NSWCTTT 414 |
| Re-painting by landlord due to marks, dents and pricks | Due to painting of internal walls needing to be re-done every 7-10 years <u>landlord not entitled to compensation</u> for repairing/repainting the pinpricks and minor damage to the gyprock, as forms part of the preparation work for repainting the property | <i>Acevska v Foss (tenancy)</i> [2010] NSWCTTT 541 |
| Painting due to bluetack on the walls and scuffed skirting boards | Without any condition report, no photographs of the room and with tenant providing evidence that the room was in similar condition when the moved in, <u>tenant not liable for the cost of painting</u> | <i>Sharman v Flanagan (Residential Tenancies)</i> [2021] VCAT 451 |
| Damage to property resulting in noticeable patch and different paint | Damage to property must be fixed so that property is returned in the same condition in which it was found. Different paint and noticeable patch mean <u>tenant responsible for cost of repair</u> proportionate to paint lifespan | <i>Scorgie v Chew</i> [2007] ACTRRT 16 |

EVIDENCE YOU SHOULD PROVIDE IN A BOND CLAIM OR DISPUTE

As well as arguing that any damage to the walls and paint is reasonable wear and tear, you can also defend a claim to your bond on the basis that, for example:

- The walls or paint have not been damaged;
- The walls or paint have been damaged and it is not reasonable wear and tear, but the amount of money the landlord is asking for is excessive; and/or
- The walls or paint have been damaged but it is the landlord's responsibility.

| ARGUMENT | EVIDENCE NEEDED |
|---|---|
| No damage | <ul style="list-style-type: none"> • Ingoing condition report • Outgoing condition report • Photos and/or videos from start and end of tenancy • Receipt from cleaning company |
| Reasonable wear and tear | <ul style="list-style-type: none"> • Evidence of the length of the tenancy • Evidence of the number of people living in the property • Evidence of household composition (eg children) • The ingoing and outgoing condition reports • Photos from the start and the end of the tenancy • Photos demonstrating that damage not excessive • Evidence such as signed and dated witness statements or statutory declarations, photographs, expert reports that damage occurred during the normal use of the property |
| Landlord's claim is unreasonable | <ul style="list-style-type: none"> • Cheaper quotation/s from different suppliers • Receipts demonstrating that repairs were carried out • Evidence demonstrating the extent of the damage • Evidence demonstrating the impact of the damage on the function of the item • Evidence of age of item. The deemed lifespan of paint is 7-10 years: <i>Acevska v Foss (Tenancy)</i> 2010 NSWCTTT 541 |