



Bond Special: Decking & Exterior Floors

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 decking and/or exterior floors is reasonable wear and tear, the Residential Tenancy Commissioner will consider a range of factors including:

- the age, quality and condition of the decking and/or exterior floors 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 number of tenants and household composition;
- the average lifespan of decking and/or exterior floors According to the Australian Taxation Office, there is no set useful life and therefore depreciates at 2.5% per annum however dependant on normal use, material 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 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
Pavers on balcony with rust marks & dirt	Pavers exposed to the elements that were stained with rust spots from umbrella bases and dirty from pot plants <u>was reasonable wear and tear</u>	<i>Avevska v Foss (Tenancy)</i> [2010] NSWCTTT 541
Cracked pavers caused by heavy vehicle	<u>Tenant responsible</u> for cracked pavers due to heavy vehicle being driven over them when only should have been used for walking	<i>Bonke v Jackson (Residential Tenancies)</i> [2017] ACAT 82
Veranda dirty	<u>Tenant not responsible</u> for cost of pressure clean to rear veranda where timber floor rotting and stained with tree sap	<i>Collins v Caruana (Tenancy)</i> [2011] NSWCTTT 569
Rotting decking	A <u>tenant is not responsible</u> for rotting decking just because they kept and watered the plants on them. A landlord must prove that decks made of durable material, construction date and when painted, stained or varnished	<i>Reddan v Martin (residential Tenancies)</i> [2018] VCAT 1669
Pot plant marks and stains on decking	Marks and stains on the deck from pot plants is <u>beyond reasonable wear and tear</u> and landlord entitled to compensation	<i>Lehane v Bryant (Tenancy)</i> [2005] NSWCTTT 636
Minor oil stains and some marks on garage floor	Minor oil stains on garage floor caused by old car that leaked occasionally <u>was reasonable wear and tear</u> - as is some marks from cars parked in designated spaces	<i>Barrera v Meyer (Tenancy)</i> [2003] NSWCTTT 57; <i>Sethi & Ors v Caswell & Anor (Residential Tenancies)</i> [2018] ACAT 59



EVIDENCE YOU SHOULD PROVIDE IN A BOND CLAIM OR DISPUTE

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

- The decking or exterior floor has not been damaged;
- The decking or exterior floor has 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 decking or exterior floor has been damaged but it is the landlord's responsibility.

ARGUMENT	EVIDENCE NEEDED
Tenant not responsible for damage	<ul style="list-style-type: none"> • Ingoing condition report • Outgoing condition report • Photos and/or videos from start and end of tenancy • Photos and/or videos from the end of the tenancy
Reasonable wear and tear	<ul style="list-style-type: none"> • Proof that the damage was caused by: <ul style="list-style-type: none"> ▶ The landlord; ▶ an agent of the landlord (e.g. a tradesperson); ▶ another party that you did not invite onto the property; ▶ the landlord's failure to carry out repairs; or ▶ a structural defect with the property • Notice of damage and its cause provided to the landlord (e.g. email or text message)
Landlord's claim is unreasonable	<ul style="list-style-type: none"> • Cheaper quotation/s from different suppliers • Evidence that the landlord has rented out the property again for the same/higher rent without fixing the damage • Evidence that the landlord did the work themselves, and that they are not a professional • Evidence of the age of the decking and exterior floors. According to the <i>Australian Taxation Office Rental</i>, there is no set useful life and therefore depreciates at 2.5% per annum however dependent on normal use, material etc. • Evidence that the damage is cosmetic and does not effect the function of the deck or exterior floor