



Bond Special: Kitchen Benches

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 kitchen benches 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 type of material of the bench (i.e. granite, timber, Laminex)
- the length of the tenancy;
- the size, extent and noticeability of the damage;
- the number of tenants and household composition;
- the average lifespan of kitchen benches. 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
Small round hole in laminate kitchen bench	The damage was with burn and <u>beyond reasonable wear and tear</u>	<i>Yan v Mason (Residential Tenancies)</i> [2015] VCAT 1778
Burn to timber kitchen bench	A burn mark on a timber bench next to the hob in the kitchen <u>was not reasonable wear and tear</u> . But tenant was not responsible for replacing the several year old bench with a brand new one	<i>Liebich v Rent MyProperty & Ors</i> [2015] QCAT 378

Bond Kitchen Benches: Examples



ITEM	DECISION	CASE
Unsealed timber kitchen bench	The bench was not properly sealed and therefore not fit for purpose. <u>Tenant not responsible for damage</u>	<i>Wilson v Statton (Residential Tenancies)</i> [2018] VCAT 996
General Damage to kitchen bench	Outgoing condition report did not document any damage to the kitchen bench. This was inconsistent with photo provided to Tribunal by the landlord. Tribunal was not satisfied by evidence. <u>No compensation was awarded to the landlord</u>	<i>Brown v Couch</i> [2021] NSWCATCD 70
Scratches from failing to use cutting board on bench	A lack of care in not using a cutting board means damage was <u>not reasonable wear and tear</u>	<i>Green v Miller (Tenancy)</i> [2005] NSWCTTT 703
Some scratches on the benchtop	Taking into account the age of the benchtop, scratches were <u>deemed reasonable wear and tear</u>	<i>Soun v Wood (Tenancy)</i> [2013] NSWCTTT 65
Stained and marked granite bench	<u>Tenant liable</u> for stained and marked benchtops as cleaning was not considered adequate	<i>Howarth v McConchie (Tenancy)</i> [2006] NSWCTTT 541
Two large chips and multiple minor chips in granite kitchen benchtop	Granite is a hardwearing and durable surface that should hold up even after five years of ordinary use. Chips were noticeable and significant in size. Damage was considered <u>not reasonable wear and tear</u> and tenant deemed responsible for repair of chips	<i>Chandra v Masterman (Residential Tenancies)</i> [2017] ACAT 90
Chips, round marks and scratches to granite benchtop	Tribunal not satisfied that replacement of entire granite benchtop is required rather landlord entitled to part compensation for loss of aesthetic appearance	<i>Murphy v Woods (Tenancy)</i> [2010] NSWCTTT 609



EVIDENCE YOU SHOULD PROVIDE IN A BOND CLAIM OR DISPUTE

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

- The item has not been damaged;
- The item 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 item has 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 • 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 the tenant did not invite onto the property; ▸ the landlord's failure to carry out repairs; ▸ a structural defect with the property • Notice of the 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 damage is cosmetic and does not effect the function of the bench top • Evidence that the landlord has rented out the property again for the same or 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 kitchen bench. According to the Australian Taxation Office, there is no set useful life and therefore depreciated at 2.5% per annum however dependant on normal use, material etc. • Proof that the replacement bench top is higher quality and cost then the bench top it is replacing (e.g. replacing Laminex with granite)