



Tenant Repair Charge Policy

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1. Purpose

This policy establishes the approach of Eastern Suburbs Rental Housing Co-operative (ESRHC) to clearly define the tenant's responsibilities and ESRHC's responsibilities for maintenance.

ESRHC may charge tenants for the cost of repairing damage to a property or undertaking services that the tenant is responsible for.

This policy applies to all tenants managed by ESRHC under all relevant programs.

2. Basis for Policy

This policy implements the obligations of ESRHC under:

- Residential Tenancies Act 1997
- Housing Act 1983 – Performance Standards for Registered Housing Agencies
- DHHS General Lease Guidelines for Registered Housing Agencies

3. Policy and Procedures

3.1 Approach to Tenant Repair Charges

- The Residential Tenancies Act (RTA) outlines the rights and duties of the tenant and the landlord (General duties of tenants and landlords) which forms the basis of the tenant repair charge policy.
- ESRHC will seek to recover repair charges from tenants in circumstances where repairs to the property are necessary as a result of deliberate damage or neglect caused by the tenant, another household member or a visitor who enters the property with the tenant's permission.
- ESRHC will not seek to recover repair charges for fair wear and tear that occurs to the property through ordinary day-to-day use of the property by a tenant.
- ESRHC will not seek to recover repair charges for urgent repairs except where due to deliberate damage or neglect caused by the tenant, another household member or a visitor who enters the property with the tenant's permission. (Refer to Responsive Maintenance and Repair Policy for definition of urgent repairs).
- ESRHC may not seek to recover repair charges for damage caused by mental and physical health, instances of family violence, or third party criminal damage.
- ESRHC may not seek to recover repair charges for any item, fixture or fitting at the end of its useable life or that is due to be replaced.
- This policy may not apply to circumstances where tenants, residents or visitors have caused intentional, extensive and malicious damage to the property. In these circumstances, ESRHC may serve an immediate notice to vacate and seek an Order for Possession under s243 of the RTA.

3.2 Repair Charges

Repair charges for damage and repairs will be sought from tenants in the following circumstances:

Intentional damage to the property:

- alterations being made without approval
- alterations carried out by or on behalf of the tenant not conforming to ESRHC's requirements
- fixtures or fittings installed that do not meet the required standards of ESRHC
- floor coverings being removed without the consent of ESRHC
- malicious damage to the property
- punctured internal cabinets, doors and walls
- sewer and/or drainage blockages caused by items flushed down the toilet, such as sanitary products, wipes, nappies or toys

Neglectful damage:

- broken and damaged clotheslines and hoists
- broken windows
- burns or other damage to carpets that cannot be considered fair wear and tear
- damage caused by neglect
- damage to toilets, basins, showers, and bathtubs
- damaged/missing doors and security screens
- erroneous call outs

- failure to keep the property in a reasonably clean condition
- failure to take care to prevent damage to the property
- pest control

Compliance with third party instructions:

- in instances where emergency services are required to gain access to the property, the tenant may be invoiced for the cost of any associated damage
- a direction from Victoria Police
- a direction from council by-laws (e.g. hoarding)
- a direction from the Metropolitan Fire Brigade or the Country Fire Authority
- the property being damaged or destroyed by fire as a result of the actions of the tenant, as confirmed by the Metropolitan Fire Brigade or the Country Fire Authority
- a compensation or compliance order from the Victorian and Civil Administration Tribunal (VCAT)

Conclusion of the tenancy:

- approved alterations being made during the tenancy and the property not being restored to the condition existing at the start of the tenancy or as at completion of the most recent works undertaken by ESRHC (fair wear and tear excepted)
- broken locks or where keys have not been returned to ESRHC at the end of a tenancy
- end of tenancy cleaning
- any costs associated with the removal of tenant property such as furniture, appliances, personal effects or vehicles left behind at the end of the tenancy

Prior to taking any action in relation to damage to the property, ESRHC will investigate and confirm the tenant's responsibility for the damage, including discussing the matter with the tenant. ESRHC will undertake a human rights impact assessment before determining whether to issue a tenancy breach relevant to the level of damage at the property.

3.3 Determining Responsibility for Damage to the Property

To determine who is responsible for the cost of repairing damage to the property ESRHC will ensure the process is fair, timely and evidence-based by:

- Inspecting the property and collecting evidence of the damage and how it may have occurred, including photos
- Taking into account the condition of the property at the beginning of the tenancy, as stated in the Property Condition Report and any evidence of work undertaken on the property
- Taking into account damage due to fair wear and tear, which ESRHC is responsible to repair
- Taking into account damage due to an emergency situation where there was good cause to believe that the tenant's health and wellbeing was at risk
- Considering whether ill health or inability to maintain the property has contributed to the damage. In these circumstances the tenant is required to provide evidence.

- Considering whether the damage is a result of criminal activity such as family violence, break and enter or vandalism. In these cases a Police report should be supplied by the tenant within 14 days proving the matter has been reported to the Police.
- Discussing the items of damage with the tenant and recording information the tenant or a third party gives ESRHC about the possible cause of the damage

3.4 Managing Tenant Repair Charges

Where ESRHC determines that the damage is a result of intentional damage, mistreatment or neglect and that the tenant has therefore breached their responsibilities as outlined in their Tenancy Agreement the tenant will be responsible for the cost of repair work.

ESRHC will undertake the following steps to seek to recover repair charges:

- Inspect the property and complete a Property Condition Report ideally with the tenant present,
- Detail in a transparent and comprehensive manner, the repair charges to recover the costs of the repairs; and
- Provide the tenant with a written notice of the repair costs. The notice will outline the proposed terms to repay the repair costs.

3.5 Repayment Agreement

After responsibility has been resolved, ESRHC and the tenant will both sign a repayment agreement detailing the costs involved and how it will be paid (lump sum or by instalments). Tenants may choose to have third party support in negotiating the terms of the repair repayment

If the tenant accepts liability for the identified damage, the claim should be considered a substantiated tenant repair charge. The tenant may either pay the amount in full, or enter into a repayment agreement to pay off the repairs in fortnightly instalments. The repayment instalment amount cannot exceed 5% of the household's total income unless approved by the Manager, and agreed by the tenant.

If the tenant has vacated the property, the tenant repair charge will be held against the tenant as per the relevant VCAT order.

3.6 Appealing Decisions about Tenant Repair Charges

If a current or vacated tenant disputes the amount of the tenant repair charges or denies responsibility for the damage, ESRHC advises them of their rights and the process to lodge an appeal for a review of the decision.

ESRHC will advise the tenant that they can apply to VCAT to have the condition of the property and any damage determined by the tribunal (where applicable) as per the RTA.

3.7 Breach and Compliance Process

If an agreement cannot be reached, or an agreement is broken, ESRHC will pursue the costs through the breach and compliance process under the RTA.

This may include:

- issuing a breach of duty notice under s208: *Breach of Duty Notice* for:
 - s61: *Tenant must avoid damage to premises or common areas*
 - s63: *Tenant must keep rented premises clean*
 - s64: *Tenant must not install fixtures, etc. without consent*

4. Tenant Responsibilities

Tenants will:

- Abide by the terms and conditions of their Tenancy Agreement.
- Take good care of the property and keep it reasonably clean.
- Inform ESRHC as soon as possible if the property has been damaged.
- Pay costs for damage that results from deliberate action, mistreatment or negligence of a tenant, household member or visitor that has been proven and comply with orders to pay the cost of repairs or cleaning.
- Report to the Police any damage that is suspected to have resulted from criminal activity, such as break and enter, vandalism or family violence; and provide ESRHC with a Police Event Number.
- Rectify any alterations carried out by the tenant before handing the keys back when vacating.
- Restore the property to the condition it was in at the start of the tenancy, after allowing for fair wear and tear; and
- Return all keys to ESRHC.

5. Landlord Responsibilities

ESRHC commits to fulfil its role as a landlord under the RTA.

ESRHC will:

- Ensure the property is in reasonably clean condition prior to a tenancy commencing, is maintained to a community standard, and is never below a habitable standard.
- Provide tenants with a written statement setting out the rights and duties of the ESRHC and the tenant under a Tenancy Agreement.
- Inspect the property every 12 months.
- Undertake responsive and cyclical maintenance and has a flexible program of upgrades that can take advantage of vacancies.
- Ensure all maintenance is undertaken by qualified tradespeople.

6. Communication

ESRHC will provide clear information to tenants on this policy, and will inform tenants when the policy is being used to recover costs.