

NORMAL WEAR & TEAR



STATUTORY REFERENCES

Residential Tenancies Act (RTA) sections:

- 1(1)(f) landlord definition
- 1(1)(l) residential premises definition
- 1(1)(m) residential tenancy agreement definition
- 1(1)(t) tenant definition
- 16(c) landlord's covenants
- 21 tenant's covenants
- 37 tenant's remedies
- 46(1)(b) normal wear and tear definition
- 46(5) deductions from security deposit

There are no sections in the Regulations relating directly to “normal wear and tear”.

GUIDELINES

Normal wear and tear is defined in the RTA as deterioration that takes place over time from the use of the residential premises, even when the tenant provides reasonable care and maintenance.

The residential premises are the landlord's property and naturally, the landlord wants and expects them to be looked after and kept clean and in good repair. However, over time, even with the best care and attention by the tenant, things wear out.

The tenant should maintain the residential premises in a condition that is, at the very least, no worse than it was when the tenant moved in, allowing for normal wear and tear.

The landlord can conduct periodic inspections to confirm that the tenant is **not** damaging the premises and is keeping them in a reasonably clean condition. (see Landlord's Right of Entry section).

The RTA and *Public Health Act* require landlords to ensure that the residential premises meet certain standards at all times. The Minimum Housing and Health Standards that the landlord **must** meet are contained in the Housing Regulation and Nuisance and General Sanitation Regulation, both under the *Public Health Act*.

In addition, it is a covenant of every residential tenancy agreement that the tenant will “. . . **not** do or permit significant damage to the premises, the common property [and] the tenant will maintain the premises and any property rented with it in a reasonably clean condition”.

Typically the tenant is responsible for looking after the residential premises, but the tenant is **not** responsible for everything in the residential premises. The plumbing, heating/air conditioning, and electric services are some examples of systems within the premises that the landlord is responsible for maintaining as per the Minimum Housing and Health Standards. However, this does **not** take away the tenant's obligation **not** to damage those systems. It also does **not** relieve the tenant of liability for repair if they or a family member or guest, or even a pet, cause damage to the residential premises.

The tenant also has the responsibility to inform the landlord if anything in the residential premises needs repair or replacement. It is a good idea for the tenant to put their request for repairs in writing and keep a copy. A landlord should respond to a request from a tenant for repairs within a reasonable period of time. In some cases, tenants may elect to have landlord's repairs completed and then apply to court to be compensated for the cost of performing the landlord's obligations. Repair costs **cannot** be deducted from rent unless agreed to by both parties.

One way to reduce, if **not** eliminate, most of the potential areas of dispute is for both the landlord and tenant to be clear on responsibilities for maintenance of the residential premises from the start of the tenancy. The residential tenancy agreement should say what the landlord is responsible for looking after and repairing and what the tenant is responsible for taking care of and repairing.

A landlord **cannot** make deductions from a security deposit for restoring or repairing costs resulting from normal wear and tear, even if there is a clause saying the opposite in a residential tenancy agreement. The RTA protects the security deposit from deductions for normal wear and tear as the RTA requires landlords to complete move-in and move-out inspection reports so the landlord and tenant can determine whether there are needed repairs or extra cleaning. If the inspection reports are **not** completed, the landlord is **not** entitled to make deductions from security deposits to cover cleaning or repair costs. However, the clause will allow the landlord to sue the tenant for the charges agreed to.

A tenant has the responsibility for ordinary cleaning and for cleaning the results of extraordinary or abnormal use. Some examples of damages to the physical condition of rental premises for which deductions can be made (when inspection reports are properly completed) are:

- Steam cleaning of rugs with obvious dirt, soil, oil or urine stains or holes
- Badly repaired holes in walls
- Pushed in door panels
- Food, dirt or nicotine on walls, cupboards and appliances
- Broken glass
- Holes in window screens
- Garbage or litter strewn about
- Pet excrements.

Some examples of normal wear and tear for which deductions are **not** allowable are:

- Professional shampooing of rugs, when there were no excess foreign materials
- Professional cleaning of drapes, when there were no excess foreign materials.

The cleaning of carpeting or rugs is one of the main sources of conflict between landlords and tenants. If the tenant had a pet that was **not** caged, steam cleaning will almost certainly be required regardless of the length of the tenancy. But that doesn't mean that every time a tenancy ends professional carpet cleaning is required and the expense can be charged to the tenant. If the landlord wants to do that, the carpet will have to have been in such a condition that professional cleaning is required.

The landlord **cannot** charge a tenant for the total replacement of a worn out carpet or rug simply because that particular tenant happened to be leaving at a time when the replacement is required.

Spilled liquids, cigarette burns, oil stains or mud tracked onto carpets may be occurrences of everyday living, but they are **not** normal wear and tear. The overall deterioration to the carpet from repeated cleanings is normal wear and tear.

Hanging pictures on walls is an issue between landlords and tenants. Consideration **must** be given to both the number of pictures that are hung on the walls, and the manner in which they are hung. A tenant should check with the landlord regarding what is acceptable.

A tenant who rents a single-family home, townhouse or duplex, and has the exclusive use of the yard or part of the yard, is generally responsible for routine yard maintenance and snow removal. The parties may agree to arrangements for ongoing maintenance in the residential tenancy agreement.

A landlord has to maintain the residential premises in good repair in compliance with all building, health, fire and safety standards and is required to perform any other obligations outlined in the residential tenancy agreement.

If a landlord does **not** fulfill the landlord's obligations, the tenant may apply to court or RTDRS for one or more of the following remedies:

- (a.) Recovery for damages because of the breach or contravention by the landlord,
- (b.) Reduction in rent (abatement of rent) if the tenant has lost a benefit of the tenancy,
- (c.) Compensation for the cost of performing the landlord's obligations, or
- (d.) Termination of the tenancy by reason of the breach or contravention if, in the opinion of the court, the breach or contravention should cause the tenancy to be terminated.

A tenant who shows the landlord that they are responsible and will look after the residential premises will have fewer problems during the tenancy.

A landlord who shows the tenant that they care about the upkeep of the residential premises is more likely to see the same behaviour from a tenant than a landlord who neglects the residential premises and doesn't look after maintenance, repairs or replacement.

