

Your seminar questions answered

19 December 2016

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Tenancy Services presented a series of 10 free seminars to landlords in selected locations throughout New Zealand from September to December 2016. The seminars, which focused on the new Residential Tenancies Act law changes that came into effect on 1 July 2016, were delivered in partnership with the Ministry of Justice (Tenancy Tribunal), the New Zealand Property Investors' Federation (NZPIF) and the Energy Efficiency Conservation Authority (EECA).

The evening presentations were aimed at educating and informing landlords and property investors (primarily with 5 properties or less) about the law changes, and how to effectively apply the new laws in relation to their rental property, their tenants, and the running of their everyday business.

[Download the Landlord Seminar presentation. \[PDF, 1.9 MB\]](http://www.tenancy.govt.nz/assets/Uploads/Tenancy/Landlord-seminar-presentation-2016.pdf)
(<http://www.tenancy.govt.nz/assets/Uploads/Tenancy/Landlord-seminar-presentation-2016.pdf>)[PDF 1.9MB]

Answers to the questions that were raised during the seminar series are:

[Read an online summary of the main changes to the Residential Tenancies Act](http://www.tenancy.govt.nz/about-tenancy-services/news/law-changes-to-the-residential-tenancies-act-now-in-force/) (<http://www.tenancy.govt.nz/about-tenancy-services/news/law-changes-to-the-residential-tenancies-act-now-in-force/>) (<http://www.tenancy.govt.nz/uta/governance/64537ffdsse/>) and its regulations. Follow the links for important details about new requirements on things like smoke alarms, insulation, new Tenancy Services enforcement powers, retaliatory notice, abandonment orders, work orders and record keeping.

Can you provide some examples of how to assess and retrofit your property to be warmer, drier and safer?

[Check out the new legal requirements](http://www.tenancy.govt.nz/about-tenancy-services/news/changes-to-tenancy-law-what-do-they-mean-for-you/) (<http://www.tenancy.govt.nz/about-tenancy-services/news/changes-to-tenancy-law-what-do-they-mean-for-you/>) and some practical tips including:

- Warmer. All rental homes must have ceiling and underfloor insulation to the required standard by 1 July 2019, where it is practical.
 - [Read about the insulation standards](http://www.tenancy.govt.nz/maintenance-and-inspections/insulation/) (<http://www.tenancy.govt.nz/maintenance-and-inspections/insulation/>)
- Drier. There are simple things landlords can do to improve heating and ventilation and to fight dampness and mould.
 - [Read about dampness and mould](http://www.tenancy.govt.nz/maintenance-and-inspections/mould-and-dampness/) (<http://www.tenancy.govt.nz/maintenance-and-inspections/mould-and-dampness/>)
 - [Read about heating and ventilation](http://www.tenancy.govt.nz/maintenance-and-inspections/heating-and-ventilation/) (<http://www.tenancy.govt.nz/maintenance-and-inspections/heating-and-ventilation/>)
- Safer. Smoke alarms are now compulsory in all rental homes and landlords must make sure they have the right smoke alarms installed in the right places. The rental home must also be reasonably secure.
 - [Read more on locks and security](http://www.tenancy.govt.nz/maintenance-and-inspections/locks-and-security/) (<http://www.tenancy.govt.nz/maintenance-and-inspections/locks-and-security/>)
 - [Information about smoke alarms](http://www.tenancy.govt.nz/maintenance-and-inspections/smoke-alarms/) (<http://www.tenancy.govt.nz/maintenance-and-inspections/smoke-alarms/>)

A warmer, drier, safer rental home is a win for the landlord as well as the tenants. It needs less maintenance in the long run, and attracts long-term tenants.

Are there any common pitfalls, quandaries or issues for landlords, and what are the guidelines you would follow for resolving those?

Here are a few of the common mistakes landlords make:

- Not using full legal names. All tenancy documentation, including the tenancy agreement and Tenancy Tribunal applications, should include the full legal names of the landlord and the tenant or tenants – whether individual, company or trust names. The Ministry of Justice needs full legal names to enforce a Tenancy Tribunal Order.
 - [more information on who should be named on a tenancy \(http://www.tenancy.govt.nz/starting-a-tenancy/tenancy-agreements/who-should-be-named-on-the-tenancy-agreement/\)](http://www.tenancy.govt.nz/starting-a-tenancy/tenancy-agreements/who-should-be-named-on-the-tenancy-agreement/).
- Not keeping records. It's very important for both landlords and tenants to keep all records about the tenancy. These can help you clear up any issues, either during or at the end of the tenancy. Find out more.
 - [Read more about keeping records \(http://www.tenancy.govt.nz/starting-a-tenancy/new-to-tenancy/keep-records/\)](http://www.tenancy.govt.nz/starting-a-tenancy/new-to-tenancy/keep-records/)
- Not doing regular inspections. Regular property inspections are important. They're also an opportunity for landlords and tenants to keep in touch with each other.
 - [Information about inspections. \(http://www.tenancy.govt.nz/maintenance-and-inspections/inspections/\)](http://www.tenancy.govt.nz/maintenance-and-inspections/inspections/)

If you're a landlord, remember you're running a business – even if you own just one rental home. There have been some important changes to the law recently. Come to the Tenancy Services site to check you're across your new responsibilities, including changes to the rules on smoke alarms and insulation.

- Read about the changes to rules on [insulation \(http://www.tenancy.govt.nz/maintenance-and-inspections/insulation/\)](http://www.tenancy.govt.nz/maintenance-and-inspections/insulation/) and [smoke alarms \(http://www.tenancy.govt.nz/maintenance-and-inspections/smoke-alarms/\)](http://www.tenancy.govt.nz/maintenance-and-inspections/smoke-alarms/)

How should a landlord deal with methamphetamine contamination and testing? What are the indicators that a landlord should be concerned about?

Landlords must provide a clean property. Landlords should check for any signs of 'meth' or 'P' at the property before and during the tenancy, and tenants should ask if it has been made or used there before they sign the tenancy agreement. Find out more about spotting and dealing with methamphetamine contamination including some warning signs from the Auckland Regional Public Health Service that a lab may be operating.

Standards New Zealand is developing a New Zealand Standard on the testing and remediation of properties used for the manufacture or consumption of methamphetamine. The Ministry of Health has also recently made some recommendations.

- [Read about dealing with methamphetamine contamination \(http://www.tenancy.govt.nz/starting-a-tenancy/renting-affected-properties/renting-a-property-affected-by-methamphetamine-p/\)](http://www.tenancy.govt.nz/starting-a-tenancy/renting-affected-properties/renting-a-property-affected-by-methamphetamine-p/)
- [Read Ministry of Health recommendations \(http://www.health.govt.nz/publication/review-remediation-standards-clandestine-methamphetamine-laboratories-risk-assessment\)](http://www.health.govt.nz/publication/review-remediation-standards-clandestine-methamphetamine-laboratories-risk-assessment)
- [Information on a New Zealand standard \(http://www.tenancy.govt.nz/about-tenancy-services/news/standard-being-developed-for-p-contaminated-properties/\)](http://www.tenancy.govt.nz/about-tenancy-services/news/standard-being-developed-for-p-contaminated-properties/)

Do you have any advice on what a landlord should do following the Osaki decision?

There has been a change to a tenant's liability for damage following the New Zealand Court of Appeal's recent decision in [Holler & Rouse v Osaki & Anor \[2016\] NZCA 130](#).
(<https://forms.justice.govt.nz/search/Documents/pdf/jdo/2a/alfresco/service/api/node/content/workspace/SpacesStore/c1cbdd3e-270f-4f3f-9e7c-6bb5876b8ae0/c1cbdd3e-270f-4f3f-9e7c-6bb5876b8ae0.pdf>)

Where there is careless damage on the part of the tenant, and the landlord has insurance, the tenant cannot be held liable. Further, the tenant is not liable for careless damage arising from certain events, namely fires, floods or explosions, whether or not the landlord has insurance cover. The tenant cannot waive their right to be exonerated from liability for damage and the landlord cannot be awarded the insurance excess. If the damage is intentional or the result of a criminal offence, the tenant can still be held liable.

Landlords should check their insurance policy before discussing compensation for damage with the tenant, as their policy may cover the damage. If the landlord and tenant cannot agree whether the tenant is liable, the landlord or the tenant can apply to the Tenancy Tribunal for a decision.

- [Find out more about the Osaki decision, including a Practice Note from the Tenancy Tribunal.](#)
(<http://www.tenancy.govt.nz/about-tenancy-services/news/tenancy-tribunal-practice-note-in-response-to-holler-and-rouse-v-osaki-decision/>)

Building and Housing Minister Dr Nick Smith announced on 15 October 2016 that the government is now considering changes to the Residential Tenancies Act to make tenants liable for damage caused by carelessness or negligence up to the value of their landlord's insurance excess but not exceeding four weeks' rent, which is aligned with the standard tenancy bond. Under the proposal, a different amount could be mutually agreed if specifically provided for in the tenancy agreement and would enable the tenant, if they wished, to take out their own insurance.

However at present, Tenancy Services mediators and Tenancy Tribunal adjudicators continue to work within the current law.

- [Read the announcement \(https://www.beehive.govt.nz/release/tenancy-law-change-damage-claims-being-considered\)](#)

How does the digital signature on the online bond lodgement form work?

All bond forms must be signed by the landlord and tenant. This makes the lodgement and refund process easy – unsigned forms cause delays.

There are new bond lodgement and bond refund forms.

- [See the new lodgement and refund forms \(http://www.tenancy.govt.nz/forms-and-resources/\)](#)

These can be signed using a digital signature. This is an image of the signature, but you must create it using PDF software. If either the landlord or the tenant cannot do this, you will need to print the form and get it signed.

The Bond Centre needs an actual copy of the signature. This is what we can and cannot accept:

Acceptable:

Not acceptable:



What kinds of disputes come before Tenancy Services mediators and Tenancy Tribunal adjudicators?

The issues that typically come before mediators and adjudicators include rent arrears, bond refunds, fixed-term tenancy reductions, work orders, damage and abandoned tenancies. Adjudicators deal with more serious or complex issues, and can also decide whether a particular living situation is covered by the Residential Tenancies Act.

Where the parties to a tenancy agreement cannot agree on how to resolve a problem, they can apply to the Tenancy Tribunal. Where it may be possible to resolve it without a formal Tenancy Tribunal hearing, mediation is arranged. Mediators are appointed by Tenancy Services, which is part of the Ministry of Business, Innovation and Employment. Mediators help the parties to agree on a solution, but cannot tell them what to do.

If mediation works, the mediator writes up the agreement in a Mediated Order which, if sealed by an adjudicator, can be legally enforced if people don't do what they agreed to. If mediation does not work or if the problem is serious, it will be referred to the Tenancy Tribunal for a hearing. An adjudicator appointed by the Ministry of Justice will listen to both parties and will then issue a legally binding decision.

- [Find out more about your dispute resolution options. \(http://www.tenancy.govt.nz/disputes/disputes-process/\)](http://www.tenancy.govt.nz/disputes/disputes-process/)

What can a landlord or tenant do to prepare for mediation or a tribunal hearing?

Most mediations take place over the phone. This may help resolve the problem faster. Tribunal hearings usually take place at the District Court closest to the rental home.

Make sure you submit all the relevant documents with your Tenancy Tribunal application. These must include the tenancy agreement, and could also include rent records, receipts for work done, a 14-day notice to remedy, bank statements and clear, colour photographs. If any part of the claim relates to damage done by a tenant, attach a full copy of your insurance policy. If you submit your application online, take three copies of the photographs to the hearing.

Before mediation, think about possible solutions to the problem. Be prepared to consider the other party's suggestions.

If you want to bring a support person you will need to ask the mediator or adjudicator for permission. They may ask the other party if they agree.