



What insurance do I need?

It is up to the landlord to insure their rental property against damage that may occur, either through accident or otherwise. That insurance will usually be for the benefit of the **landlord only**, and not the tenant.

This means that if the property is damaged or destroyed, the landlord can decide to make a claim to their insurance company.

When a landlord makes a claim for damage caused by a tenant, and the insurer believes it was either intentional or caused through carelessness, the insurer may require the landlord to make a claim against the tenant. Usually such a claim will be made against all the tenants who have their names on the tenancy agreement, whether or not they contributed to the damage. (This is because by signing the agreement they become 'jointly and severally liable'.)

Once an application has been made, the applicant (the landlord acting on instructions from the insurer) will have to prove the damage occurred during the tenancy. To avoid liability for the damage the tenants will have to show the damage was not intentional nor caused by carelessness either by themselves or their guests.

How can tenants protect themselves against insurance claims?

Tenants can also insure themselves against the risk of being held liable for damage. They cannot insure the rental property itself (as they do not own it) but they can insure:

- their own property (**contents insurance**), and/or
- themselves against the risk of being held liable for damage they cause (**personal liability insurance**)

Personal liability insurance is usually part of normal contents insurance, or can be added to it. Some companies will consider a personal liability insurance without the contents policy attached. Sometimes it is called 'legal liability'. Tenants should check their policy to see whether they are covered. Some policies may have a number of exceptions, or limited cover.

What happens if an insurance company takes over the claim on behalf of the landlord?

If an insurer meets a claim made by a landlord that is less than \$12,000, and seeks to recover the money from a tenant, the insurer will require the landlord, as their client, to make the application against the tenant. (This is because the Tenancy Tribunal has exclusive jurisdiction in landlord/ tenant disputes of less than \$12,000 and the insurance company cannot make a claim against the tenant in the Tenancy Tribunal or Disputes Tribunal as it does not have separate rights against the tenant.)

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An insurer can bring a claim against a tenant in the District Court in their own name, if the claim is for more than \$12,000.

If the landlord has agreed to settle the matter with the tenant, then the insurance company may be bound by the settlement. For example, if a landlord has previously agreed with the tenant that the matter will be ended if the tenant pays the excess, and the tenant relies on this agreement, then the landlord or insurance company may not later be able to claim the whole amount of the damage ('estoppel').

The tenant will not be liable if they can show the damage was not intentional or careless, either by them or by another person who the tenant allowed to be on the property.

Advice for landlords

- Make sure you have insurance that covers the premises and make sure the cover is for a rental property. Check exactly what it is that the policy covers you for. The Residential Tenancies Act requires you to pay the insurance premiums charged for that insurance.
- Talk to your insurance company **before** you make any agreement with your tenant, if there is an insurance claim for damage involved.
- You may also choose to insure any chattels (as listed in the tenancy agreement) in your property. If the chattels are damaged this will not be covered by any contents insurance the tenant may have.

Advice for tenants

- **YOU NEED INSURANCE.** If you are signing a tenancy agreement you should consider personal liability insurance, or have a contents insurance policy which also covers you for damage caused to the landlord's property. Even if you are not named on the tenancy agreement it is still a good idea to insure your own goods and have personal liability insurance.
- **You could be held liable for damage.** Remember that if you are named on the tenancy agreement you can be held liable for any intentional or careless damage, whether you caused it or not.