

# TENANT REPAIR CHARGE

## POLICY

### 1. PURPOSE

The purpose of this Policy is to explain when a Tenant has the responsibility to pay for repairs to an Evolve Housing Property.

### 2. SCOPE

This Policy applies to all current and previous Tenants of Evolve Housing.

### 3. POLICY STATEMENT

This Policy relates to damage to the Property, other than fair wear-and-tear, for which the Tenant is responsible and the cost of repairing that damage, as well as Tenant requests for repairs to be undertaken at their Property that is not the responsibility of Evolve Housing under the *Residential Tenancies Act 2010* (the Act). These costs are known as a Tenant Charge.

Tenants can expect Evolve Housing to provide them with a Property that is in good condition and to maintain that condition throughout the life of their tenancy. Tenants are expected to take good care of their premises and to take responsibility for property damage other than that caused by fair wear and tear.

#### 3.1 Fair Wear and Tear Definition

The term 'fair wear and tear' is not specially defined in the Act or in the Tenancy Agreement but is described by the NSW Department of Fair Trading as "the deterioration that occurs over time with the use of the premises even when the premises receives reasonable care and maintenance".

You are only liable for negligent, irresponsible or intentional actions that cause damage to the premises.

Tenant charges and how they are determined are set out in this Policy. Evolve Housing is able to apply tenancy related charges in accordance with the provisions of the *Residential Tenancies Act 2010*.

### 3.2 Responsibilities

3.2.1 What Tenants can expect from Evolve Housing  
Evolve will:

- Abide by the landlord responsibilities in Residential Tenancy Agreement terms and conditions;
- Collect and record information about the type and extent of damage to a Property and the circumstances under which the damage may have occurred;
- Before the Tenant vacates the Property, to carry out a final inspection in the Tenants' presence and complete a Property Condition Report;
- not charge the Tenant for damage that occurs following the final inspection and after the Tenant has returned the keys and provided vacant possession;
- Submit all damages over \$2000.00 to NCAT for adjudication.

3.2.2 What Evolve Housing expects from the Tenant  
The Tenant should:

- Abide by the terms and conditions of the Residential Tenancy Agreement;
- Take good care of the Property and keep it reasonably clean;
- Tell Evolve Housing as soon as possible if the Property has been damaged;
- Pay Tenant Repair Costs.
- If applicable, comply with NCAT or local court orders to pay the costs of repairs and/or cleaning;
- Report to the NSW Police any damage that is suspected to have resulted from criminal activity, such as a break and enter, vandalism, or domestic violence and provide the police event number to Evolve;
- When they vacate the Property;

- restore the Property to the condition detailed in the Property Condition Report signed at the commencement of the tenancy, allowing for fair wear and tear;
- return the keys to Evolve Housing on or before the date of vacating.

### 3.3 Types of damage where a Tenant may be responsible

The following types of damage are typical of incidents where the Tenant may be responsible for the cost of repairs:

- Damage to or removal of smoke detectors;
- Broken windows;
- Damage to internal doors, walls and/or cabinets;
- Burns or other damage to carpets that cannot be considered fair wear and tear;
- Broken and/or damaged clotheslines or hoists;
- Broken locks;
- Damage to doors and security screens;
- Damage to toilets and basins;
- Sewer blockages caused by items that should not be flushed down a toilet.

### 3.4 Other Tenant Charges where the Tenant may be responsible for the cost

- Replacement of lost or damaged keys;
- Locksmith charges to gain access to the Property;
- Replacement of Common Area swipe cards;
- Removal of items, rubbish or hazardous materials from a Common Area which are identified as the responsibility of the Tenant;
- Removal of abandoned or unregistered vehicles;
- Removal of furniture, rubbish or vehicles abandoned at the Property at the end of the tenancy;
- Uneventful Contractor Charges – when a Tenant fails to keep an appointment with a contractor to access the Property to make a repair, the Tenant may be required to reimburse Evolve Housing for cost of the contractor's time;
- Requests to check utilities where no fault is found – for example a request to check the hot water system as the electricity bill appears to be excessive, but no fault was found. In these cases, the Tenant will be informed prior to the inspection that they will be charged for the visit if no fault is found.

### 3.5 Tenant damage due to negligence

A Tenant will be responsible for the cost of repairs for any act or failure to act by the Tenant that results in damage to the Property: for example a fire caused by the Tenant, household members or visitors. If Evolve Housing is required to lodge an insurance claim to cover the costs of the repair, the Tenant will be liable to pay the excess amount.

#### 3.5.1 Damage that is the Tenant's responsibility includes:

- Damage that is intentional, irresponsible or negligent;
- Failure to keep the Property in a reasonably clean condition;
- Failure to restore the Property to the condition detailed in the Property Condition Report as at the start of the tenancy, after allowing for fair wear and tear.
- Intentional damage or neglect that is caused by any member of the household, household pets, or any visitor who enters the Property with the permission of a member of the household.

#### 3.5.2 Assessing who is responsible for the cost of repairs

When considering who is responsible for the cost of repairing damage to the Property, or repairs which are requested by a Tenant, Evolve Housing may:

- Take into account the type of damage/requested repairs along with any information in respect to liability which the Tenant provides at the time of reporting the damage;
- Inspect the premises, and photograph and document the damage/requested repairs where appropriate;
- Discuss and record any information the Tenant or a third party may provide as to the possible cause of the damage/requested repairs;
- Take into account the condition of the Property at the beginning of the tenancy (as detailed in the Property Condition Report) and any evidence of work undertaken on the Property at the start of or during the tenancy;
- Take into account any damage due to fair wear and tear;
- Take into account any damage/requested repairs due to an emergency situation where there was cause to believe that the health and wellbeing of a Tenant or member of the household was at risk.

- Consider whether ill-health or inability to maintain the Property has contributed to the damage or request for repairs. In these circumstances, the Tenant is required to provide documented evidence.
- Consider whether the damage/requested repairs are the result of criminal activity such as break and enter, vandalism or domestic violence. Evolve Housing is committed to reducing the effects of domestic violence and encourages people subjected to domestic violence to speak with a Housing Manager or domestic violence support workers.

In circumstances of criminal activity the Tenant is required to provide evidence they have reported the matter to the NSW Police, for example a Police statement or Event number.

### 3.5.3 If Evolve Housing considers the Tenant is responsible for a Tenant Repair Charge.

- Evolve will advise the Tenant in writing, listing the nature of the repairs, their costs and the Tenant's responsibility under the *Residential Tenancies Act 2010*.
- If the Tenant wishes to dispute liability, they must do so within 21 days of receiving the advice from Evolve. The reasons for the dispute must be provided to Evolve Housing in writing, and should include any supporting documentation.

If a Tenant disputes the Charge or does not acknowledge responsibility, Evolve Housing may take action through NCAT to recover the costs from the Tenant. Through NCAT, the Tenant will have an opportunity to tell why they dispute liability and NCAT will determine if the Tenant is liable and if so, how much the Tenant will have to pay.

### 3.5.4 Repeat or serious incidents of Tenant Repair Costs.

Where Evolve Housing has sufficient evidence of repeat or serious incidents of Tenant damage, Evolve will immediately take action through NCAT to obtain a Specific Performance Order. In certain circumstances, Evolve Housing may take action to end the tenancy.

## 3.6 Tenant Repair Charges where Asbestos is Present

Living in a home built with a material containing asbestos or lead, generally does not pose a health risk unless the material is broken, sanded, drilled or disturbed in any way that results in airborne fibres or dust. (Refer to the Evolve Housing Hazardous Materials – Lead & Asbestos Policy.)

If a Tenant damages their Property, and that Property has material containing asbestos or lead, the asbestos or lead could be disturbed. In these cases, where there is evidence that a Tenant has intentionally, irresponsibly or negligently damaged their Property, Evolve Housing will always pursue Tenant Repair Charges.

Evolve takes the view that a Tenant will be responsible for the costs involved in repairing the structure containing the hazardous material. However any costs associated with safely removing and disposing of the hazardous material – including asbestos – will be paid by Evolve Housing.

In summary, the Tenant will be responsible for the cost of the repairs only.

## 3.7 Reviewing decisions

The Tenant may request an internal review of an Evolve Housing decision to levy Tenant Repair Charges on the grounds of ill health, domestic violence or the criminal activity of a third party.

## 3.8 Payment of Tenant related charges

A Tenant may make payments for Tenant Repair Charges in the following ways:

- Centrepay – the MDFP option
- Payway card for Non-rent Charges

The different ways in which a Payway card can be used, are set out in the How to Make Rent and Non-rent Payments Fact Sheet which is available on the Evolve Housing website.

### 3.8.1 Important Note:

Tenant Repair Charges are considered Non-rent Charges and therefore must be paid separately to Rent. If a Tenant makes a combined payment that includes a Rent and a Non-rent payment, the combined payment may be credited to the Tenant's rent account.

#### 4. DEFINITIONS

- Complaint – an expression of dissatisfaction with the standard or type of service provided by Evolve Housing, which is made by an external person or organisation (Complainant), and where the Complainant had expected or is requesting a different outcome or result.
- Common Area (of Property) – space shared by all Residents of a Property i.e. a common room or foyer
- Landlord – the person who grants the right to occupy a property under the Residential Tenancy Agreement.
- NCAT – NSW Civil & Administrative Tribunal is an independent NSW statutory body which resolves a wide range of disputes including tenancy and other residential property issues. NCAT decisions must be followed and are enforceable.
- Non-rent Charges – any charges that are not rent, for example water charges or charges to repair damage to property. Non-rent Charges are paid separately to rent.
- Property – the property or residential premises described in the Residential Tenancy Agreement between the Landlord and the Tenant.
- Resident – a person approved by Evolve Housing to reside on a permanent basis in a property which is owned or managed by Evolve Housing under a Residential Tenancy Agreement (includes a Tenant).
- Residential Tenancy Agreement (or Tenancy Agreement) – a written agreement between a Landlord and a Tenant, which governs the terms on which that Tenant occupies the property described in the Agreement.

- Tenant – a person who signs the Residential Tenancy Agreement with Evolve Housing and who has certain rights and obligations under that Agreement.

#### 5. RELATED RESOURCES

- Evolve Housing How to Make Rent and Non-rent Payments Fact Sheet
- Evolve Housing Hazardous Materials – Lead & Asbestos Policy
- Evolve Housing Terminating a Tenancy Policy
- Residential Tenancy Agreement
- *Residential Tenancies Act 2010 (NSW)*

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*This Policy is subject to change from time to time at the discretion of Evolve Housing. Any approvals required under this Policy will be granted in accordance with the Evolve Housing Limited Delegations of Authority Policy. Further information on this Policy and other topics, is available on the Evolve Housing website [www.evolvehousing.com.au](http://www.evolvehousing.com.au). If you have any specific questions regarding this Policy, please contact Evolve Housing on 1800 693 865 or email your enquiry to [myevolve@evolvehousing.com.au](mailto:myevolve@evolvehousing.com.au).*