149 Tenant Damage Policy

1. Purpose

This policy sets out tenants’ responsibilities where there is damage to a property caused by:

- a tenant,
- a member of the tenant’s household, or
- anyone invited by the tenant/ member of the household into the home.

2. Scope

This policy applies to all Link Housing properties including social, affordable and private rental housing.

3. Policy

Tenants will be held responsible for any damage to their property as a result of deliberate or negligent actions by the tenant, an additional occupant, or an invited visitor or a failure to act to prevent the damage. This is monitored and actioned through inspections and NCAT action where appropriate.

Exceptions to this include instances of domestic violence where the tenant is not the perpetrator and in accordance with the Residential Tenancies Act 2010.

Tenants may also be held responsible for damage caused to their neighbour’s property if the neighbour is also a tenant of Link Housing.

Types of tenant damage include:

- damage that has been deliberately caused;
- damage resulting from a failure to take care of the property or report a maintenance issue;
- failure to keep the premises in a reasonably clean condition;
- unauthorised modifications to the property, including where the tenant considers the modification an improvement to the property.

Link Housing may require the tenant to arrange and directly pay for the damage to be rectified themselves. Work should be carried out by an appropriately qualified and certified tradespersons approved by Link Housing’s Assets Manager. The tradesperson must comply with all Work Health and Safety (WHS) Obligations.

A tenant may choose to ask Link Housing to rectify any damage. If Link Housing carries out the work, the cost of the work will be added to the tenant’s non-rent account and an invoice will be sent to the tenant. Circumstances when Link Housing may complete the work include:

- Where a health or safety issue is present;
- Where the tenant requests that Link Housing take care of the work and agrees to pay for the work to be completed;
- At the end of tenancy.

For serious cases of tenant damage, Link Housing may apply to the NSW Civil and Administrative Tribunal (NCAT) to end the tenancy.
4. Tenant responsibilities

Section 51 of the *Residential Tenancies Act, 2010 (NSW)* states that tenants should:

- Keep the property reasonably clean;
- Notify the landlord of any damage to the premises as soon as practicable;
- Not intentionally or negligently cause or permit any damage to the premises;
- Leave the premises as near as possible in the same condition (except for fair wear and tear) as set out in the original condition report.

The Act also states that the tenant is responsible for the actions of others (Section 54).

5. Procedure

Where tenant damage is suspected, Link Housing will investigate how the damage occurred. If it is established that the tenant is responsible, arrangements must be made for the repairs to be carried out in accordance with this policy.

In assessing responsibility for the damage, Link Housing will:

- identify the type of damage;
- the condition of the premises at the beginning of the tenancy, as detailed in the Property Condition Report;
- damage from fair wear and tear;
- consider the tenants circumstances and how it may have contributed to the damage;
- whether the circumstances come within the domestic violence provisions of the *Residential Tenancies Act*.

In the event the tenant vacates, any unpaid amount to Link Housing will be collected in line with our End of Tenancy Policy.

Where there is a dispute relating to tenant damage, Link Housing may seek an order for repayment through the NCAT.

6. Legislative and Regulatory Framework

- *Residential Tenancies Act 2010*
- Arrears Policy
- Ending a Tenancy Policy
- Modifications to Properties Policy

7. Complaints and Appeals

A tenant who is not happy with a decision made by Link Housing or who believes that Link Housing has not followed this policy can lodge a complaint or an appeal using the complaints and appeals policies.

8. Privacy and Confidentiality

Link Housing will keep applicants’, tenants’ and residents’ information and feedback confidential, in line with privacy laws and standards.
9. Quality Assurance

The Tenant Damage Policy will be formally reviewed every two years, or when necessitated through a sufficient change in circumstances, eg legislative change.