



# ESPRESSO

Your shot of  
property news



## FAIRLY MALICIOUS

**A**lthough there are several grey areas of property management, perhaps one of the most contentious between landlords and their tenants is the issue of damage to the property. It's especially an issue for landlords who are viewing their property for the first time in several years and become shocked at the difference in how they expected it to look versus the reality.

First the official definition; according to the Department of Fair Trading, deterioration that occurs over time with the use of the premises, even though the premises receive reasonable care and maintenance, is known as fair wear and tear.

The deterioration could be caused by time, exposure, or just ordinary use. The tenant is not liable for the cost of repairing damage that is considered fair wear and tear.

On the other hand, damage that is caused maliciously or negligently is the responsibility of the tenant. Although some personal judgement needs to be exercised in individual cases, one example of the difference might be scuffed wooden floors (landlord's responsibility) versus badly scratched or gouged floors (tenant's responsibility).

There is one other thing that will

need to be considered in determining responsibility though - the age of the material under consideration. Carpets, for example, are usually depreciated over seven years so any repair or replacement required for carpets older than that may still be the landlord's responsibility, even if there is damage that otherwise might be considered the tenant's responsibility.

The flip side of the limitation in holding tenants responsible for fair wear and tear, is the right for the landlord to claim depreciation on the property as a deduction in their annual tax return. Although accounts vary, it's estimated that up to 80% of all landlords do not claim any or all of the depreciation they are eligible to. Make a plan. It's important for

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anyone investing in property to have a strategy and exit plan in place for how you are going to get out. It usually requires 10 years to make it worthwhile. Part of the planning is to have a disaster plan in place which needs to include insurance,



in particular landlord and income protection.

With effective property management, landlords will be covered for all damage to their property, whether fair wear and tear or otherwise. With an annually updated professional depreciation schedule and careful regular inspections by the landlord or their managing agent, effective classification can be made of any deterioration to the property and the appropriate resultant action taken.

### BRAIN TEASER

First, think of the color of clouds.  
Next think of the color of snow.  
Last, think of the color of the moon.  
Now, what do cows drink?

ANSWER ON PAGE 2



Annie Lyngcoln, Property Consultant, tcmrentals

Annie has over 15 years experience in the Cairns Property Industry including Sales, Body Corporate and Property Management. This well rounded experience is a perfect fit for TCM Rentals who work closely with TCM Strata.

## DID YOU KNOW?



Did you know that popcorn has more antioxidants than fruits and vegetables?

## BRAIN TEASER



**ANSWER: WATER** (if the teaser worked, you guessed milk)

## BEN BASKS

This month we discussed with property investor Simon what he thinks about the judgement of fair wear and tear.

a: Thanks for joining us Simon, do you have many investment properties?

s: Thanks for having me. Yes, I have two residential properties and one commercial.

a: Have you had any bad experiences with the judgement of fair wear and tear on your properties?

s: Yes, when our last tenant vacated one of our residential properties there was numerous scratches on the entrance floor tiles and scrapes out of the wall plaster. The scratches appeared to be done when the tenants were moving out and dragged their large pot plant over the tiles.

a: What was the outcome of this situation?

s: We made a claim on the bond which eventuated in going to tribunal combined with an arrears claim. The tribunal member viewed the damage as fair wear and tear however as we could prove that the damage wasn't visible at the last routine inspection we were awarded a small amount of compensation that we will put towards renewing the floor coverings next year.

a: So were you happy with this?

s: Yes it was better than nothing.

a: Great, thanks for discussing this with us today.

## ECO TIP

eco tip



### Print on two sides:

Know what? It's not that hard to print on both sides of the paper. But even though most software programs give that option, most of us still print only on one side of the page. Save money and your local landfill. Print on two sides.

## WHAT'S ON

tcmstrata welcomes a new staff member to the team Paul Flanagan joins tcm as Body Corporate Manager"

