



Public liability claims if injured in a rental home

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Whether you're renting a long-term home or staying in a short-term holiday rental (e.g., Airbnb, Stayz etc), it's important to know your rights if you're injured on the property. Landlords, whether private owners or holiday rental hosts, have a duty of care to keep their properties safe for tenants and visitors. This blog explains who may be responsible for injuries in a rental property, what you should do and what [public liability compensation](#) may be available.

Who is responsible if you are injured in a rental home?

Landlords have a duty of care to their tenants and any visitors to their rental property. They need to ensure that all people using that property are safe from any potential harm.

Nevertheless, it is circumstantial as there can be situations where the tenant may be responsible for injuries caused on the property.

This is why it is important to determine the cause of your injury and whether it was caused by the landlord's lack of duty of care. If so, you may be eligible to lodge a public liability compensation claim.

Types of injuries in a rental home or holiday rental

Here is a list of potential injuries that can be sustained while living on a rental property:

- Tripping due to paths or pavements;

- Unstable structures and stairs;
- Electrical faults;
- Rotten boards and steel; and
- Unstable railings, including balcony railings.

This is not an exhaustive list. If you've sustained an injury unrelated to the above, you should seek advice about your rights and entitlements.

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Landlords' responsibilities to maintain a rental property

Owing a duty of care means that landlords (long-term rentals and holiday rentals) must take reasonable steps to make sure that their property is maintained for their tenants. Landlords should make sure that the property is clear of any obvious dangers or known defects and that necessary repairs are undertaken before the renter moves into the property.

Examples of landlord responsibilities include:

- Ensuring that alarms and smoke detectors are regularly safety-checked and working;
- Appliances and installations are set up in accordance with relevant guidelines; and
- Acting promptly to renters' repair requests (even for short-term holiday rentals) to ensure that they are not exposed to any risk or danger in the future.

It is important to note that it is not enough for the landlord to ensure that the property is safe prior to the renter moving in or the holiday-maker arriving. The landlord must ensure that they keep up with such maintenance into the future.

Eligibility to lodge a public liability claim

Rental property landlords will have public liability insurance on their property(s), which covers personal injury.

To be eligible to make a public liability claim if injured in a rental property, your injury needs to be:

1. permanent;
2. stable (that is, unlikely to markedly improve or decline); and
3. a "significant injury".

You also need to prove that the person or organisation responsible for the place or activity failed in their duty of care to you.

What compensation is payable if I'm injured in a rental property?

If you're eligible for public liability compensation after an injury in a rental property, you can claim the following:

- pain and suffering damages/compensation (lump sum);
- lost wages;
- out-of-pocket medical and like expenses; and
- gratuitous care expenses.

What to do if you have been injured in a rental home

If you have been injured in a rental home (including a holiday rental), you must:

Seek medical attention immediately

Regardless of whether you have cut yourself or fallen, you never know what internal damage has been caused or could cause in the future. Having your injury accessed by a medical professional will not only ensure that your injury is examined thoroughly but that an accurate record of your injury is made right after it has taken place. This is helpful in circumstances where the injury may worsen in the future.

Take photos and videos of the injury sustained

Taking a photo of your injury once it occurs allows you to have a reference point should your injuries worsen. It may also be a good point of reference should your injuries become more internal than external.

Take photos and videos of the cause of the injury

Should your injuries worsen, having photos and video footage of what caused your injury may assist with future claims you may wish to make.

Notify the landlord of your injury and how it occurred, and keep all correspondence

Keeping all correspondence will also assist you in the future should you wish to pursue a claim. This is especially important in instances where you have notified the landlord of a potential hazard that could cause injury, and they did not attend to any required maintenance in a reasonable timeframe.

Keep all medical and like receipts

Keeping all receipts and invoices for medical and like expenses means that should you decide to lodge a claim in the future, you will be able to seek reimbursement for any medical and like expenses relating to your injury.

Can I make a claim if I was a visitor to a rental property and not a tenant?

You do not need to be an injured tenant at a rental property to make a public liability claim. Visitors to a rental property (including visitors to a holiday rental) may also make a public liability claim.

Similar to an injured tenant, if you were a visitor to a property and have been injured, you must show that the injuries you sustained were a direct result of the property owner's negligence.

When may a landlord not be liable for an injury sustained within their property

Though circumstantial, there are a number of instances where a landlord may not be liable for an injury caused on their property, such as:

- If the injury was caused by the renter's negligence; or
- If the landlord was unaware of the hazard.

That is why it is very important, as tenants of a property, to conduct your own inspection prior to signing your rental agreement, and if you recognise any hazards on the property after the fact, you should notify the landlord immediately.

Likewise, should issues arise during your tenancy, you should notify the landlord (or their agent) as soon as possible and, again, keep records of that notification. Short-term renters (for example, holiday rentals) should also notify the host (or their agent) as soon as they become aware of any hazards in a property.

Once notified, make sure to keep all correspondence regarding notification of the hazard. This makes it easier in the future should an injury occur as a result of your landlord's negligence.

Get help from a public liability lawyer

If you have been injured as a result of your landlord's negligence, contact Guardian Injury Law for an initial free consultation on your potential claim. It costs you nothing to find out where you stand.

Contacting Guardian Injury Law

[1300 700 761](tel:1300700761)

enquiries@guardianinjurylaw.com.au

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