

# Lambton County Community Services Housing Services Department Policy and Procedure Manual

SUBJECT: Tenant Charges		INDEX NO.: 2.004
EFFECTIVE: 09/04/02	APPROVED: 04/09/02	REVISED:

## **Policy:**

The County of Lambton requires all tenants to pay the repair costs for any damage to County owned property that is the result of a negligent or willful act (beyond normal wear and tear).

A tenant may be charged for the work that has not been completed under the Tenant Protection Act, 1997 (Part III section 87) if proper evidence of the necessary work is provided to the Tribunal. If the tenant refuses to pay the cost, the Housing Services Department will start the eviction process using the Form N2.

## **Procedure:**

### Tenant Responsibility

The lease signatories are responsible for damage caused by:

- any resident in the unit;
- any guest or visitor permitted on the leased premises by the tenant.

### Communication With Tenants

The following methods shall be used to inform and remind tenants of the tenant charge policy, such as:

#### **At Move-in**

Hold a complete discussion of tenant responsibilities as stated in the lease at the time of lease signing and move-in.

#### **At Annual Inspection**

Remind tenants at the time of the annual unit inspection.

#### **At Time of Occurrence**

When damage occurs, advise the tenants of the policy and the approximate charges to be levied. The tenant can repair the damage themselves using County of Lambton approved contractors or obtain approval to complete the repairs themselves. The

# Lambton County Community Services Housing Services Department Policy and Procedure Manual

SUBJECT: Tenant Charges		INDEX NO.: 2.4
EFFECTIVE: 09/04/02	APPROVED: 04/09/02	REVISED:

Housing Services Department can repair the damage but tenants must be advised in writing, whenever possible, that they will be billed for the full cost of these repairs.

### Negligent or Wilful Act

The Housing Services Department will investigate to determine whether the tenant's action was actually a wilful or negligent act.

If it is judged that the act was not negligent or wilful, then the tenant may not be charged for the repairs.

### Amount of Charges

Tenant charges are based on damage beyond normal wear and tear. The amount of charges is not considered rent. However, the Housing Services Department may give a notice to terminate under *Part III section 63 of the TPA* and apply for compensation for damage under *Part III section 87* if the tenant refuses to pay.

If the tenant moves out and damage charges have not been paid, the Housing Services Department will go through the Small Claims Court to recover the cost.

Charges will be the sum of the labour plus materials, excluding the depreciated cost of the building components.

### Depreciation Factors

Building components depreciate over varying periods of time.

The age of the particular components will be taken into consideration prior to levying a charge for replacement.

Replacement charge is calculated as follows:

$$\text{Charge} = (1 - \text{age} / \text{lifespan}) \times (\text{Replacement cost})$$

A suggested list of life spans is found in the County of Lambton Building Element Life Expectancy Guidelines found at the end of this Policy and Procedure.

# Lambton County Community Services Housing Services Department Policy and Procedure Manual

SUBJECT: Tenant Charges		INDEX NO.: 2.4
EFFECTIVE: 09/04/02	APPROVED: 04/09/02	REVISED:

## Labour Charge

If an outside contractor performs the work, the total amount of the invoice will be charged. A copy of the contractor's invoice is attached to the Housing Department invoice.

If County of Lambton staff performs the work, the employee will include the cost of labour required to complete the work and the cost of the charge on the work order.

## Liability Insurance

All tenants are responsible for obtaining, at their own expense, adequate insurance coverage against damage to the Leased Premises, loss of personal property and public liability.

The Housing Services Department will determine if the tenant has liability insurance which covers both the tenant's goods and the building structure. If so, the Housing Services Department will endeavour to recover the full cost of repairs, even if it is in excess of the County's deductible.

## Limit on Charges

All costs incurred for fire or water damage up to the full amount of the deductible may be charged back to the tenant. A minimum charge of 10% of the tenant's current gross annual income to the full amount will be charged where a tenant has failed to obtain proper insurance.

## Tenant Charge Categories

Tenant charges are made in the following categories:

- maintenance and repair;
- fire and water damage;
- service-related charges;
- removal of unapproved enhancements.

The Housing Services Department will try to recover all material and labour costs for damages deemed the responsibility of the tenant.

# Lambton County Community Services Housing Services Department Policy and Procedure Manual

SUBJECT: Tenant Charges	INDEX NO.: 2.4
EFFECTIVE: 09/04/02	APPROVED: 04/09/02
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### Maintenance and Repair

Examples of maintenance and repair items include, but are not limited to:

- repairs to doors and windows;
- plastering/drywall, painting, wallpaper removal;
- broken fixtures;
- broken handrails and towel bars;
- plugged toilets, sinks and drains;
- burnt and damaged countertops;
- appliance repairs and/or replacement;
- glazing and screen repairs;
- fencing;
- parking lot repairs;
- furnace repairs.

### Fire and Water Damage

Charges are made for fire damage resulting from tenant negligence, such as careless smoking.

Charges for water damage may result from tenant failure to turn a tap off, or tampering with hot water heating equipment.

Documentation for fire and water damage includes:

- an Incident Report; or insurance claim by the County of Lambton;
- a copy of the Fire Marshall's Report, if appropriate;
- documentary photographs of damage (retained on file);
- a copy of the insurance claim by the tenant, if available.

### Service Related Charges

The following services will be charged to the tenant, if caused by tenant neglect. The *Tenant Protection Act, 1997* does not consider charges related to services listed below as rent-related charges but rather a private debt between the owner and the tenant. All tenants will be advised that if they agree to have the Housing Department perform any of these services, payment is required upon completion of required work.

# Lambton County Community Services Housing Services Department Policy and Procedure Manual

SUBJECT: Tenant Charges	INDEX NO.: 2.4
EFFECTIVE: 09/04/02	APPROVED: 04/09/02
	REVISED:

- Garbage removal, if caused by the tenant’s failure to dispose of garbage in a manner prescribed by the Housing Services Department;
- removal of furniture, appliances, etc.;
- grounds upkeep, if the tenant has failed to cut the grass or otherwise failed to maintain the exterior portion of the leased premises as per his/her legal responsibility (e.g., shoveling a walk);
- costs, awarded by the Tribunal, when the Housing Services Department is required to take legal action against the tenant;
- nuisance calls and additional service charges from an outside contractor, when a tenant who requested maintenance failed to provide entry to the unit;
- lock-outs, or the cost of providing entry when the tenant loses the key to the unit. The cost for the replacement keys are the only charges that can be passed on to a tenant. The Tenant Protection Act, 1997 prohibits the costs for “call-out” charges. Communicate with the tenant what options are available to them. I.e. contract a Locksmith directly, stay with friends or family until the next work day at which time staff may let them into their unit.

If it is judged that the act was not negligent or wilful, then the tenant may not be charged for the repairs.

### Removal of Unapproved Enhancements

Tenants will be charged for the removal of unapproved enhancements which do not meet County of Lambton standards or Building Code requirements or which were not approved prior to installation.

Considerations in determining the charges include

- long term maintenance costs;
- safety standards;
- suitability for subsequent tenants;
- compliance with County of Lambton guidelines or municipal by-laws.

**See Index 3.009 for a list of standard charges.**