**Expecting the unexpected:**

**What property managers, landlords and tenants need to do in an Emergency!**

Every now and then life throws a curve ball. We don’t see it coming, but we can be a little prepared by knowing what the expectations on all parties are. The following are some tips taken from an article by Michael Gapes, Partner, Carter Newell Lawyers, in which we consider the provisions of the Residential Tenancies and Rooming Accommodation Act 2008 in relation to emergency repairs and provide some useful tips on how to deal with the issue.

**What Constitutes an Emergency Repair?**

Section 214 of the Residential Tenancies and Rooming Accommodation Act 2008 (The Act) defines “emergency repairs” as any of the following:-

1. A burst water service or a serious water service leak;
2. A blocked or broken lavatory system;
3. A serious roof leak;
4. A gas leak;
5. A dangerous electrical fault;
6. Flooding or serious flood damage;
7. Serious storm, fire or impact damage;
8. A failure or breakdown of the gas electricity or water supply to premises;
9. A failure or breakdown of an essential service or appliance on premises for hot water, cooking or heating;
10. A fault or damage that makes premises unsafe or insecure;
11. A fault or damage likely to injure a person, damage property or unduly inconvenience a tenant of the premises;
12. A serious fault in a staircase, lift of other common area of premises that unduly inconveniences a tenant in gaining access to, or using, the premises.

**What is a routine repair?**

Section 215 defines “routine repairs” as “repairs that are not emergency repairs”. I tell all our residents that a routine repair is anything that can wait until the morning.

**The Landlord’s and the Property Manager’s responsibilities.**

As part of their obligations under section 185 of the Act, a lessor (landlord) is responsible for ensuring the premises are clean, in good repair and fit for occupation. This duty cannot be contracted out of by the lessor or delegated to a property manager or other third party.

The fundamental difference between an emergency repair and a routine repair is the way in which the lessor and property manager are obligated to respond to the repair request.

While routine repair requests can be attended to within a reasonable timeframe, an emergency repair request should be treated with the utmost priority. The failure to address emergency repairs in a timely fashion could expose lessors and property managers to claims of mismanagement or negligence.

Pursuant to section 216(1) of the Act, the lessor can nominate a person to act on his/her behalf in arranging ta person to conduct the emergency repairs. Section 216(2) provides that he nominated repairer can be stated in the PAMD Form 18A General Tenancy Agreement (the agreement) or in a separate written notice given to the tenant. The agreement or notice must state whether the nominated repairer is the tenant’s first point of contact for notifying emergency repairs (section 216(3)). Any change in a nominated repairer must be advised to the tenant in writing (section 216(4)),

**The obligations of a tenant.**

Section 217(1) of the Act states that if the tenant is aware of any damage to the property (or its inclusions), he or she must give notice of the same as soon as practicable.

If the property or inclusions require routine repairs, the notice must be given to the lessor (or his/her nominated agent, such as the property manager). If emergency repairs are required, the tenant must give notice to the lessor (or his/her agent) if not nominated repairer has been identified or in circumstances where the tenant cannot get hold of the nominated repairer after making reasonable efforts. If the lessor has nominated a repairer, notice of an emergency repair must be given to the repairer if the repairer is the tenant’s first point of contact, of if the tenant has not been able to contact the lessor after making reasonable efforts.