

# WHO'S RESPONSIBLE FOR DAMAGES FROM RENTAL FIRE?

*This column on issues confronting renters and landlords is written by certified property manager Robert Griswold, author of "Property Management for Dummies," and by attorney Steven R. Kellman, founder of the Tenants Legal Center.*

**Q.** I have been renting a property for four months. I accidentally set my trash can on fire by throwing away some ashes that I thought were out but apparently were not. The side of the cabinet was burned and a very small part of the cabinet. My landlord has insurance for such events, yet I unfortunately do not have renter's insurance. My landlord's insurance company is going to pay for the damages and then

demand me to reimburse them. The accident was my mistake but isn't that what the insurance company is supposed to cover? Am I legally required to pay for damages even though my landlord has insurance over such an event?

**A.** I would say you are responsible and the owner's insurance company is acting reasonably in seeking reimbursement from you for the expenses they incur in covering this claim. While every landlord should have insurance, the owner's insurance is not to protect them from situations that are created by their tenants. The owner's casualty insurance covers claims due to losses from fire, but

they also have coverage for other claims though not for situations created by their tenants.

Insurance for landlords and tenants are not like the "no-fault" car insurance concept but are based on proximate cause. Who is liable is the key question. If the situation was reversed (as it often is) and something happened (like a fire resulting from a malfunctioning electrical outlet in your rental unit or another unit) and your personal property was destroyed, you would submit a claim to your renter's insurance carrier and they would pay you and then subrogate (seek reimbursement) against the owner's insurance policy since they are liable for the cause of the fire.

In this situation, the fact that your negligence in starting the fire was unintentional doesn't change the fact that you are responsible. It has been my experience that many fires are caused accidentally by tenants while cooking or by unintentional tenant negligence through improper use of appliances or extension cords. That is one of the reasons renter's insurance is a good idea and worth the few hundred dollars per year. I suggest you negotiate some sort of payment plan with the insurance company and then immediately check into a renter's insurance policy.

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Have a question for Rental Roundtable?  
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