

WHAT TO EXPECT DURING A CLAIM PROCESS

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You just received a call from your tenant informing you that a sprinkler had activated in the building and that your investment rental unit was among the areas impacted.



This is a common occurrence for many property owners, and often the uncertainty causes a lot of stress. The question that quickly comes to mind is: “What happens next?”

If your property is professionally managed, it is likely that the property manager is already aware. If they are not, you should ensure that you contact your property manager right away to notify them of the incident. It would also be beneficial to notify your personal broker or insurance company directly to report the loss.

In most cases, your property manager will dispatch a restoration company to attend and complete initial emergency work, with the goal to prevent further damages in the building. The restoration company will provide their site report along with a budget on the extent of damages sustained. Whether the strata’s or unit owner’s insurance would be involved will depend largely on what was damaged (original fixtures vs. unit improvements), and whether the damage exceeds the strata’s deductible.

DAMAGE OVER STRATA’S DEDUCTIBLE

If the cost is over the strata’s deductible, the strata can elect to open a claim by reporting the loss to their broker and

insurers. An adjuster will be assigned to handle the claim. Your strata property manager will distribute the adjuster details to affected owners; this will be a good time to provide your own adjuster with the strata adjuster’s information.

The strata’s policy will only respond to repairs to common areas and to original fixtures. We refer to the BC Strata Property Regulations, which provides a definition of “fixtures”.

Part 9 — Insurance

Definitions for Section 149 of the Act

9.1 (1) For the purposes of sections 149 (1) (d) and 152 (b) of the Act, “fixtures” means items attached to a building, including floor and wall coverings and electrical and plumbing fixtures, but does not include, if they can be removed without damage to the building, refrigerators, stoves, dishwashers, microwaves, washers, dryers or other items.

Any improvements inside your rental unit (i.e.: change of flooring from carpet to laminate, renovation to the kitchen etc.), personal property belonging to you (or your tenant) and loss of rental income is typically not covered under the strata policy. This would fall under your own unit owner’s insurance.

Claim (Cont'd)

The strata adjuster will work with the restoration contractor to obtain a scope of work and estimate for repairs. Once the scope and estimate have been approved, the contractor will work with the strata property manager and owners to provide a repair timeline and seek input where required. If there are repairs for your improvements (i.e.: flooring), your own adjuster will discuss repair or settlement options directly with you.

If your tenant is required to move out because the unit is unlivable, notify your adjuster as soon as possible. Most condo owner policies will have loss of rental income coverage for this event.

Your adjuster will arrange for payments once all repairs have completed.

DAMAGE UNDER STRATA'S DEDUCTIBLE

If the damages to common areas and original fixtures do not exceed strata's deductible, the strata's insurance policy would not be involved. We will refer to the BC Standard Bylaws of the Strata Property Act to determine the responsibility of the strata and of the unit owner in this scenario. It is important to note that bylaws can differ, and you should always refer to your buildings bylaws to determine the responsibility of both parties.

Under "Duties of Owners, Tenants, Occupants and Visitors" bylaw (2), it requires a unit owner to repair and maintain its strata lot other than the repair and work that is the responsibility of the strata. The

responsibility of the strata is outlined under "Powers and Duties of Strata Corporation" bylaw (8), which includes repair and maintenance of common assets, structure and exterior of the building such as doors, windows, balconies and also limited common property.

This means if there is no claim made under the strata's insurance policy, your strata will not be involved with repairs to any damages inside your unit (i.e.: flooring, wall, ceiling). Many condo owner policies will provide coverage to protect unit owners from situations where the strata's insurance is not effective. Insurers may use different names for this coverage, however some common names include 'Unit Additional Protection' or 'Condominium Units Coverage.'

For example: a water loss occurs and the resulting damage was to your rental unit and the common hallway outside. The strata's insurance deductible for water damage is \$300,000 and the restoration company has confirmed the damage to both areas is \$50,000. Since the damage is under strata's deductible, there is no claim made under the building's policy. Based on the Standard Bylaws, strata would be responsible to repair the common hallway and you would be responsible to repair your own unit. If you have the luxury of a unit owner policy, your insurer would typically cover the costs, subject to your deductible.

Note that the source or origin of the damage (common area vs. strata lot), has no bearing on who is responsible for repairs. This is determined strictly by whether or not damage to original fixtures exceeds the strata's deductible.

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DEDUCTIBLE CHARGEBACK

The insurance deductible in a strata claim is considered a common expense that is paid by the strata. If the leak originated from your rental unit, depending on the bylaws, your Strata Corporation can potentially chargeback the deductible paid against your unit even if you as an owner are not directly liable.

For example: your tenant causes a stove fire and results in strata making a claim under the building's policy. If the bylaws allow, your strata may chargeback the deductible to your account since your unit was the source.

Most insurance companies will include Loss Assessment coverage as part of your insurance policy. It is important to remember that your chargeback coverage limit should match the strata's deductible, especially because deductibles may range from \$25,000 to \$500,000. It is encouraged when obtaining your own insurance, to provide your broker with a copy of the strata's summary of insurance to ensure the correct amount of insurance is purchased.

IMPORTANCE OF TENANT'S INSURANCE

When a loss happens inside your rental unit, it is essential that your tenant has purchased tenant's insurance. The damages to their personal property, their cost of additional living expenses or potential liability exposure would not be covered under your condo policy nor the strata's insurance policy.

WHAT IS SUBROGATION?

What happens if someone was negligent and damaged your unit? For example: the unit above forgot to turn off the kitchen sink tap and caused water to overflow into your unit.

If it was determined there was a negligent party, your adjuster would gather evidence and documents as part of your claim. Once your claim is finalized, your adjuster would try to recover the costs paid, including your deductible, with a demand sent to the third party's insurance company with the goal to negotiate a settlement. Any recoveries received would generally be shared in proportion (i.e.: 90 per cent recovery, you would receive 90 per cent of your deductible back).

Always try to provide your adjuster with as much information as possible if you are aware there may be a liable party that caused the damages. This will help to increase the chances of a successful recovery.

Having a claim can feel overwhelming, but by being aware of your responsibilities as an owner in a strata building, and having proper insurance coverage you can help alleviate some of the financial exposure and stress.

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