

# MEDIA RELEASE

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## **Overlooked law requires rentals to be free of dampness**

A law, developed in the 1940s to protect people from living in unhealthy homes, could be used to require landlords to provide housing that is free from dampness, according to researchers from the University of Otago and Victoria University of Wellington.

The paper is the first to look at how cases of housing quality are decided on in the Tenancy Tribunal and is co-authored by Dr Mark Bennett from the Faculty of Law at Victoria University, and Dr Sarah Bierre and Professor Philippa Howden-Chapman from the Public Health Department at the University of Otago, Wellington.

The authors reviewed a year's worth of cases about housing quality from Wellington and Dunedin that had been published online by the Ministry of Justice.

In most cases where a tenant complained of damp or mouldy housing during a Tenancy Tribunal hearing, the Housing Improvement Regulations 1947, which requires a home to be free from dampness, was overlooked, according to the research published this month in the *New Zealand Universities Law Review*.

Dr Bierre says every winter we hear stories and see media reports about people living in cold, damp and mouldy housing. “Tenants are able to ask for improvements to be made, but it was surprising to find that even if they make it to the Tenancy Tribunal the dampness laws available to protect tenants are often not used.”

Dr Bennett says the housing regulations could be used to require damp housing to have insulation, adequate heating, or ventilation installed if it is clear that is what is needed for a person to be able to live in a house that is free from dampness.

“These improvements are a cost to the landlord but they add value to the house and are things that homeowners regularly do when they move into a new home.”

Dr Bierre says there had been cases where the dampness standard had been applied.

“A renter living in a damp and mouldy house took a case to the Tenancy Tribunal and in the circumstances, the landlord was required to install ventilation fans and fix rising damp. In this case the judge found that a ‘renter must be able to use and live in a house in a normal way, without mould developing.’”

Dr Bierre says according to the law if this can't be done then it is the landlord's problem.

“In this case the landlord appealed to the District Court where the Tenancy Tribunal judgement was upheld.”

Dr Bennett says: “If a person is living in a damp, mouldy house there is a breach of the existing standards. It is important that landlords comply with the minimum standards we currently have until we can introduce a warrant of fitness for rental housing that clearly sets out what is required for a house to be habitable.”

Professor Philippa-Howden Chapman and her team have been working on a warrant of fitness for housing, which has been trialled in five cities around New Zealand.

The Housing Improvement Regulations date back to 1947 and comes under the Health Act 1956 which is required to be complied with as part of the Residential Tenancies Act 1986.

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