

# Conversations.



## Lockouts: What you need to know

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Following the November 14 earthquake, some businesses still don't have access to their premises. This may be to enable further engineering assessments, earthquake repairs to be completed or for buildings to be demolished. Even if premises cannot be used, businesses will still have to pay rent, wages and other operational costs. How should business owners respond?

- Check the lease. The lease is the key document that sets out your rights and responsibilities.
- Seek advice on the meaning of the lease. Leases are interpreted with regard to their commercial purpose and the intention of the parties. "Black" can mean "white" and "white" can mean "black" if that is what the parties to the lease intended.
- Check whether the lease allows for any rent reductions.
- Check whether the Property Law Act allows for any rent reductions.
- If payment of rent is a problem, negotiate a solution with your landlord.



Some earthquake victims had to quickly move out of damaged buildings.

### Insurance

The business owner may have cover under policies of insurance but this cover may not provide full indemnity for a business owner's losses. Business owners should:

- Check to see whether they have cover for - Material damage; and Business interruption.
- Ask your insurer to provide you with copies of the policy wording and schedule.
- Check how much excess is payable. This is the amount that you have to pay before insurance cover kicks in. It may be as high as 10 %.
- Seek advice as to the extent of your cover, the amount of your excess and the measure of

compensation under the policy.

- Seek assistance in dealing with your insurer.
  - Note that even if there is cover for business interruption, losses may not be covered if there has been no physical damage to the property or the earthquakes are not an operative cause of your loss, e.g. neighbouring properties have been damaged but your property has suffered no damage.
- ### Employment

Due to business losses, businesses may need to make some staff redundant. Employers will need to comply with both the requirements of the Employment Relations Act and provisions in employment contracts. Businesses should:

- Keep staff informed of (1) the safety of the place of work, (2) transitional arrangements for work and (3) whether and when redundancies are likely to occur.
  - Note that the duty of good faith requires employers and employees to be active and constructive in maintaining a productive employment relationship.
  - Note that both business owners and landlords have duties under the Health and Safety at Work Act. The HSWA requires business owners and landlords to work together to discharge their duties and to keep their workers informed of any health and safety risks.
  - Seek advice on how to manage staffing issues and health and safety risks.
- *Jamie Nunns is a partner in Morrison Kent Lawyers's property law team and John Goddard an Associate in their litigation and dispute resolution team. Morrison Kent has expertise in commercial leases, insurance and employment law. The information in this article is general in nature. If business owners require legal assistance, we would welcome any inquiries.*

### LETTERS

#### WEED SPRAYING

I watched the weed spraying truck go past and saw the spray drift onto my property. My dog grazes on this grass as well as grass on our walk. California has banned glyphosate as it has been linked to cancer and we are spraying poison all over our streets. It is time this is stopped. 1 litre of white vinegar, a cup of salt and a squirt of detergent will do the same thing. Wake up.

Ross Bennie, Upper hut

#### FUNDRAISING THANKS

On behalf of St Joseph's Venturer Scouts, I would like to thank all those who supported us by buying our fundraising lamingtons. We were fundraising to send five of our Scouts and two Leaders to the 21st New Zealand Scout Jamboree in Blenheim in December 2016 and three Venturers and one Leader to the 51st Walsh Memorial Scout Flying School in Matamata, in January 2017. The fundraiser was a great success, with the Venturers exceeding their target of 1100 dozen. I would like to thank Dan and his team at PakN'Save Bakery, Upper Hutt, for their support. (Abridged)

Gerald Carter, Venturer Scout Leader, Upper Hutt