



the renting book

an information handbook authorised by the Commissioner for Fair Trading
issued under the *Residential Tenancies Act 1997*.





the renting book

A guide to your rights and responsibilities as a tenant, property owner or real estate agent.

This is an information handbook authorised by the Commissioner for Fair Trading issued under the *Residential Tenancies Act 1997*.

ISBN 0 642 60269 7

© Australian Capital Territory, Canberra 2007

First printed 2006

This work is copyright. Apart from any use as permitted under the *Copyright Act 1968*, no part may be reproduced by any process without written permission from the Territory Records Office, Community and Infrastructure Services, Territory and Municipal Services, ACT Government.

GPO Box 158, Canberra City ACT 2601.

Publication No. 07/0356

<http://www.act.gov.au>

Telephone: Canberra 13ACT1 or 132281

Enquiries about this publication should be directed to the Office of Fair Trading on (02) 6207 0400

This book is a guide for all tenants, property owners and agents involved in renting residential property in the ACT. It aims to explain in simple language your rights and responsibilities under residential tenancy laws.

The *Residential Tenancies Act 1997* commenced on 26 May 1998. The Act is amended from time to time. Major amendments were made to the Act by the *Residential Tenancies Amendment Act 2004* and the *Residential Tenancies Amendment Act 2005*.

The Act applies to both private and public tenancies. If a person rents a house, unit, flat or room from a private owner, a community organisation, or the government, the Act will apply.

It is important to note that s28 of the *Residential Tenancies Act 1997* provides that the Residential Tenancy Scheme in the ACT is to be funded through the investment of bonds moneys held in the Rental Bonds Trust Account. NO INTEREST FROM THIS ACCOUNT IS TO BE PAID TO THE TENANT.

While this book covers the main issues of the *Residential Tenancies Act 1997* you should note:

- this is a guide only and does not take the place of sound legal advice;
- that decisions by the Residential Tenancies Tribunal and Courts may result in different interpretations of the Act; and
- a residential tenancy agreement should be read in conjunction with the Residential Tenancies Act.

Introduction	Does the Residential Tenancies Act apply to you?	7
Section 1	Entering into a residential tenancy agreement	9
	Residential tenancy agreements.....	9
	Sub-tenancy and assignment	11
Section 2	Lodging a rental bond with the Office of Rental Bonds	13
	Payment methods	14
	Condition of premises report	15
	Transfer of bond form.....	16
	Change of managing agent/lessor form.....	17
	Agent signature authority form.....	17
	Tenant forwarding address form	17
	Signatures of a representative	18
	Rental bonds form.....	18
Section 3	During the tenancy	19
	Tenant's conduct during the residential tenancy agreement	19
	Rent	19
	Payment of rent	20
	Receipts for payment of rent.....	20
	Records	20
	Rental increases	21
	Bond increases	21
	Review of excessive rents.....	21
	Rent reduction	23
	Property maintenance	23
	Changing locks	26
	Ongoing property expenses	26
	Ongoing expenses	27
	Inspections	27
	Access to the property by other parties	28

Section 4	Ending the tenancy	31
	How a residential tenancy agreement can end.....	32
	Termination by the tenant.....	33
	Termination by notice	33
	At the end of a fixed term residential tenancy agreement	35
	Failure to pay rent	37
	Residential tenancy agreement is periodic.....	39
	Termination by the Tribunal	39
	Termination with the agreement of the tenant.....	40
	Abandonment of the residential tenancy agreement by the tenant.....	40
	Warrants of eviction.....	41
	Compensation to the lessor	41
Section 5	When the tenant leaves the property—refund of a rental bond	43
	Rental bonds	43
	Distribution of bond between tenants.....	45
	Reading of metered services	46
	Uncollected goods	46
Section 6	Residential Tenancies Tribunal—dispute resolution	47
	Residential Tenancies Tribunal	47
	Dispute resolution	47
	Remedies available to the tenant.....	48
	Remedies available to the lessor	48
	Penalties	49
Section 7	Problems—Where to go for further information	50

Does the Residential Tenancies Act apply to you?

The Act applies to all people in residential tenancy agreements.

A residential tenancy agreement has been entered into if:

- one or more persons (tenants) enter into an agreement with the owner of the property or a real estate agent to occupy the property and pay for that right;
- the tenant or tenants have a right to occupy the property for use as a home; and
- the property is either a house, unit, flat or room.

It is important to note that a residential tenancy agreement can be written, oral or a combination of both.

A number of tenancy situations are not covered by the Residential Tenancies Act.

The Act does not apply to people who live in:

- a retirement village; or
- a nursing home or hostel for aged or disabled persons.

Some residential tenancy agreements are not covered by the Act. These include:

- agreements in conjunction with the sale or purchase of a property;
- agreements where the property is owned by a company and the tenant/s have a controlling interest in that company; and
- agreements for the right to occupy the property for a holiday.

The Act makes provision for occupancy agreements. These agreements are not residential tenancy agreements, but a range of arrangements that are granted (such as boarder or lodger agreements). The Act provides that occupants are entitled to a reasonable standard of repair and cleanliness of the premises, a measure of security of tenure, clearly defined rights of privacy, and clear information concerning the rules of the premises and the rights of residents. The Act gives jurisdiction to the Residential Tenancies Tribunal to hear disputes in relation to occupancy agreements. The Renting Book does not apply to occupancy agreements.

For information and advice about occupancy agreements, contact the Tenants' Advice Service - see Section 7 for more details.

There are a number of terms that apply to residential tenancy arrangements in the ACT which you need to understand.

Lessor—a lessor has been traditionally known as a landlord or property owner. Under the Residential Tenancies Act a lessor is the person who gives a tenant the right to occupy the property.

Office of Rental Bonds (ORB)—is the organisation authorised to act as an independent custodian of the bond paid by tenants. The Office of Rental Bonds is administered by the Registrar-General's Office. The records held by the Office of Rental Bonds are protected by the *Privacy Act (Cwth) 1988*.

Residential Tenancy Agreement—is an agreement where one party, the lessor, gives another person, a tenant, the right to occupy a property for use as a home.

Residential Tenancies Tribunal—is a tribunal established by the Residential Tenancies Act to hear disputes arising from tenancy agreements.

Standard Residential Tenancy Terms—are the terms located in schedule 1 of the Act, which are included or are taken to be included in all residential tenancy agreements.

Section 1

Entering into a residential tenancy agreement

This section explains what lessors and tenants must do when they enter into a residential tenancy agreement.

When you enter into a residential tenancy agreement (including oral agreements) you are entering into a legally binding contract. Tenants and lessors should think carefully before entering into a residential tenancy agreement as once the agreement is made it is too late to change your mind.

Residential tenancy agreements

When a lessor grants a tenant the right to occupy a property to use as a home, and this right is given for value, both parties have entered into a residential tenancy agreement.

A residential tenancy agreement can be written, oral or a combination of both. It is advisable, however, that all residential tenancy agreements be in writing. This is to avoid any confusion that may arise as it can be difficult to prove what information was included as part of an oral agreement.

What information should be included in a residential tenancy agreement?

The Residential Tenancies Act has standard terms and conditions that apply to **all** residential tenancy agreements in the ACT. These are set out in the Schedule to the Act. All written and oral residential tenancy agreements must include these terms and conditions.

Can extra information be added prior to the signing of the residential tenancy agreement?

Different words and extra terms may be added to the standard terms and conditions in all residential tenancy agreements. However, if these terms are inconsistent with the standard terms and conditions, the terms are void and have no effect, unless the Residential Tenancies Tribunal endorses those terms. Even if the tenant signs an agreement, without the endorsement of the Tribunal, the extra terms are not enforceable. Endorsement applications must be made with the written consent of both parties. The Act allows the lessor and tenant to include a specific *'fair clause for posted people'* in the residential tenancy agreement without the need for endorsement.

For further information about endorsement procedures, contact the Residential Tenancies Tribunal on 6217 4259 or 6217 4260 or visit www.courts.act.gov.au

Before signing the agreement:

- the lessor must give the tenant a copy of the proposed residential tenancy agreement;
- the lessor must indicate to the tenant any terms or conditions which are inconsistent with the standard tenancy conditions and the manner in which they are inconsistent. It should be noted that any inconsistent term must be endorsed by the Residential Tenancies Tribunal – see above;
- the tenant must be given a copy of this book or advised where to obtain a copy;
- the tenant must be given reasonable time to consider the agreement;
- the tenant must provide the lessor with his/her full name;
- a property owner must provide the tenant with his/her name and an address where the tenant can contact the owner;
- if the agreement is signed by a real estate agent on behalf of a property owner, the agent must provide the tenant with the agency's full name, the fact that they are acting as an agent, and if the agent is a company, an employee (usually the property manager) who can be contacted in relation to the agreement; and
- the lessor must give the tenant a copy of an energy efficiency rating statement (if any) for the habitable part of the premises.

Changing the residential tenancy agreement after it has been signed

Unless both parties agree, a tenant or lessor cannot change a residential tenancy agreement after it has been signed.

Sub-tenancy and assignment

A sub-tenancy occurs when a tenant, with the written consent of the lessor, subleases his or her tenancy to another person. If a tenant does not have the written consent of the lessor, the sub-tenant does not receive the same rights that are given to tenants, and the lessor may have grounds to terminate the tenancy agreement.

Similarly, a tenant cannot assign the lease to another person without the written consent of the lessor.

Once there is permission, the sub-tenant has tenancy rights in relation to their agreement with the head-tenant.

Share housing can be a complex area of tenancy law and it is a good idea to get information and advice about these arrangements.

Does a tenant have to pay a bond to enter into a residential tenancy agreement?

A lessor can require that a tenant pay a bond for the residential tenancy agreement. The bond required cannot exceed the **first 4 weeks of rent payable** under the residential tenancy agreement.

As an alternative or, in addition to the bond, the lessor can request that the tenant obtain either a guarantee or indemnity for the performance of any obligation under a residential tenancy agreement. However, whether a bond, guarantee or indemnity has been paid, the total cost to the tenant cannot exceed 4 weeks rent.



A guarantor is only liable for the difference of the bond amount. For example, if a house is rented at \$250 per week, the bond can be a maximum of \$1000. If the tenant pays a bond of \$600, then the guarantor can only be held liable for \$400.

A lessor cannot require money or any other form of payment, other than rent or bond, for the following:

- agreeing to enter into, extend or renew a residential tenancy agreement;
- agreeing to the assignment or transfer of a tenant's rights under a residential tenancy agreement;
- consenting to a tenant entering into, extending or renewing a residential tenancy agreement with a sub-tenant;
- vacating of the property by the tenant;
- giving the tenant a key to the property; or
- informing the tenant about the availability of a residential property.

Section 2

Lodging a rental bond with the Office of Rental Bonds (ORB)

Important Information – never sign or ask a tenant/s to sign a form that has not been fully completed. Do not use correction fluid otherwise the form will be invalid.

If an error is made, any alterations should be crossed through and signed in full by all parties adjacent to the changes.

If a bond is required as part of the residential tenancy agreement:

- the tenant can pay the bond directly to the lessor and the lessor will deposit at the ORB;
- a private lessor must lodge the bond with the ORB within 2 weeks of receiving the bond or the commencement of the tenancy, whichever date is the later. **Note: The bond must not be retained privately;**
- a managing agent is required to lodge the bond with the ORB within 4 weeks of receiving the bond, or the commencement of the tenancy, whichever date is the later;
- if only part payment is received, each payment should also be lodged with the ORB within 2 weeks for a private lessor and within 4 weeks for a managing agent;
- the lessor can reach an agreement with the tenant for the tenant to lodge the bond directly with the ORB;
- if the tenant is to lodge the bond, the tenant is not entitled to possession of the property until he or she produces evidence that the bond has been paid; and

- if a bond is required as part of the residential tenancy agreement, the ORB requires that a Bond Lodgement Form be completed by all parties to the bond.

Note that on the Bond Lodgement Form you should:

- list all parties separately;
- provide the contact numbers for all parties to the bond; and
- include only persons who have contributed to the bond — **DO NOT** include children or persons who have not contributed any money.

Special Note: The parties to the bond may be different to those identified on the residential tenancy agreement. For example, if the bond is paid by an organisation or a company, list the organisation or the company as the tenant. **This is relevant because the ORB can only refund bond moneys to the person/s or the organisation listed on the lodgement form.**

The ORB will provide the lessor and the tenant with a receipt acknowledging the lodgement of the bond.

If the lessor or managing agent fails to lodge the bond within the specified period, a tenant can apply to the Residential Tenancies Tribunal for an order requiring the lessor to lodge the bond. If a lessor or managing agent does not lodge the bond, a fine up to \$10,000 can be imposed by the Tribunal.

Special Note: At the time a bond is lodged it is assumed that if there is more than one party to the bond, the bond is attributed in equal shares. If this is not the case, the ORB will require a signed statement from the parties indicating the distribution of the bond at the time the refund is claimed.

Payment methods

Managing Agents

The *Agents Act 2003* prevents agents from making payments out of Trust Accounts other than by cheque or direct credit to the ORB.

Private Lessors

The ORB can accept a cheque, money order, credit card, eftpos, cash or direct debit credit for private lessors.

The ORB will not accept third party cheques with respect to payment of a bond. All cheques must be payable to the 'Office of Rental Bonds'.

Condition of premises report

A Condition of Premises Report must be filled out whenever a tenancy begins.

The condition report must be on, or to the effect of, the condition report form published by the Territory.

Reports should be prepared strictly in accordance with the approved form which is available at www.courts.act.gov.au/magistrates/index.html (under Residential Tenancies Tribunal/Tenancy Forms). It is the responsibility of both the lessor and tenant to keep a copy of the report.

The report should be true and accurate. Inaccurate reports may affect the amount of bond that is refunded at the end of a lease. The report is both the lessor's and the tenant's assessment of the state of repair or the general condition of the property, as well as any goods leased with the property. If a dispute arises, the report may become important evidence.

The steps to complete a report are:

- the lessor must complete the report and provide the tenant with 2 copies within 1 day of the tenant taking possession of the property;
- if the tenant agrees with the report, he or she should sign the form without making any changes;
- if the tenant disagrees with the report then the tenant should make a note on the report indicating what he or she disagrees with; and
- once the form has been signed and any changes made, the tenant should return 1 copy of the report to the lessor within 2 weeks.

If the tenant does not sign the form, then it may be implied that the tenant agreed with all the information that was included in the report.

If a tenant does not receive a condition report within 1 day of taking possession of the premises, it is implied that the tenant's statement about the condition of the premises is true.

Transfer of bond form

The purpose of the Transfer of Bond Form is to transfer existing registered bonds from one premises to another if the lessor or management agent has not changed, or to transfer the entitlement of tenants from existing tenants to new tenants.

It is very important that the tenants lodge a transfer form whenever there are changes in share houses. If this is not done there will be delays and possibly problems returning the bond at the end of the tenancy.

If the transfer is to a new premises, and the bond is more than for the original premises, it is necessary for the transfer to be accompanied by a cheque for the difference between the bond of the original and the new premises.

It is important to ensure that all sections of a Transfer of Bond Form are completed. The transfer is invalid if all parts are not completed and, as a result, may not be processed by the ORB.

A Transfer of Bond can only occur if the tenant is receiving the full bond back for the original premises. If the new bond is less than the original bond, the balance will be refunded to the tenant and forwarded to the new address.

If a Transfer of Bond Form is used, it is not necessary to lodge a new bond lodgement form.

On registration of a Transfer of Bond Form, the current bond will be cancelled and the moneys transferred to a new bond registration. All parties will receive a notice stating the bond amount, premises and the new bond number.

Special Note: A transfer of bond cannot be undertaken for an ACT Housing Trust bond.

Change of managing agent/lessor form

When the managing agent or owners change in relation to a property, it is important that the ORB is advised. A change of Managing Agent/Lessor form enables changes in owners or managing agents to be registered with the ORB. The information subsequently ensures that the list of parties authorised to sign is up-to-date.

In the case of a transfer of lessor as a result of the sale and purchase of a property, solicitors are requested to arrange for the new owners of the property to sign a Change of Lessor or Managing Agent Form as part of the settlement process. The form is subsequently lodged with the ORB as evidence of the new owners. A solicitor cannot sign on behalf of the property owners.

Where the ORB is not satisfied as to the proper execution of a document, it will not be accepted for processing.

Agent signature authority form

This form can be used each time new property managers are given authority to act on behalf of their agency in relation to rental bond matters.

Tenant forwarding address form

This form enables the tenant to provide his/her forwarding address for all bond-related correspondence to the ORB. Without this information it is difficult for the ORB to contact tenants.

Signatures of a representative

Only parties to a bond can sign in respect to a bond. **If one or more signatures are missing, or cannot be validated, the transaction may not be processed by the ORB.**

The only exceptions permitted are as follows:

- by attorney under a Power of Attorney;
- by authorised personal representative of a deceased person; or
- where the person signing produces a letter of authority.

Rental bonds form

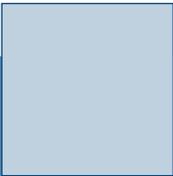
Rental bonds forms are available from the Registrar-General's Office website at **www.rgo.act.gov.au** or from the Office of Rental Bonds.

Section 3



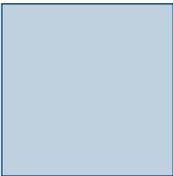
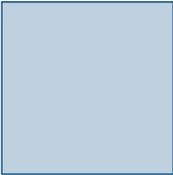
During the tenancy

Once a tenant has entered into a residential tenancy agreement with a lessor, both parties have rights and obligations.



Tenant's conduct during the residential tenancy agreement

The tenant can only use the property for a residential purpose. The tenant has an obligation under the agreement not to:

- use or allow the property to be used for an illegal purpose;
 - cause or allow nuisance;
 - interfere with the quiet enjoyment of neighbours;
 - leave the property vacant for more than 3 weeks without informing the lessor; and
 - sublet part or all of the property without the written consent of the lessor.
- 
- 

Rent

Rent is an important component of any residential tenancy agreement. Tenants pay rent on a regular basis and have an obligation to pay rent on time, in accordance with the residential tenancy agreement. Both parties should agree on the amount of rent payable and include this figure in the agreement.

Payment of rent

The residential tenancy agreement should state:

- how much rent is to be paid;
- how rent will be paid, eg directly into a bank account; and
- when rent is to be paid.

A lessor can request that a tenant provide up to one calendar month's rent in advance.

A lessor cannot change the way in which rent is to be paid unless both parties agree. For example, if rent is currently paid by cheque, a lessor cannot demand that a tenant pay the rent directly into a bank account unless the tenant agrees to the change.

Receipts for payment of rent

If the rent is paid directly into a bank account, the lessor is not required to give the tenant a receipt.

A lessor has an obligation to provide a receipt to tenants when the rent is paid:

- in person—a receipt must be given at that time; or
- by another method—the receipt should be provided or sent by post within 1 week.

A receipt for rent or bond should include:

- the date of payment;
- the period for which the payment was made;
- which property the payment was made for; and
- whether the payment was for bond or rent.

Records

The Residential Tenancies Act requires that lessors should keep a record of all rental payments made for a period of 12 months after the end of the tenancy. You should note, however, that other legislation, for example taxation legislation, may require records to be kept for a longer period.

Rental increases

Rent cannot be increased in the first 12 months of a tenancy and, for an existing tenant, may only be increased once each year thereafter.

For any rental increase to be effective the lessor must give the tenant 8 weeks' notice in writing of the rental increase.

If a tenant disagrees with the proposed increase in rent, then the tenant can either:

- vacate the property before the increase takes effect. The tenant must give the lessor 3 weeks notice in writing that he or she intends to vacate the property; or
- apply in writing to the Residential Tenancies Tribunal, at least 2 weeks (unless there are special circumstances) before the proposed increase, for a review of the rental increase. If the tenant applies to the Tribunal the increase does not take effect until, and will depend upon, an order of the Tribunal.

Bond increases

The bond cannot be increased during the life of a tenancy. If a tenancy terminates then the current bond is disbursed as a result of the termination. If the property is then re-let at an increased rental the new bond payable can be increased.

Review of excessive rents

The Tribunal has the power to review any proposed rental increases which are considered excessive. The Tribunal can make an order which will:

- allow the proposed increase;
- disallow the proposed increase;
- allow only part of the increase; or
- approve such increase as the Tribunal considers just.

The normal threshold prescribed by the Act to determine whether a rental increase is excessive, is whether the increase is greater than 20% of the increase in the CPI (Privately-Owned dwelling Rents Expenditure class) over the period since the last increase. If the proposed increase is greater than the resulting figure, the lessor must give reasons why the increase should be allowed such as rental rates for comparable premises. However, if the increase is less than the amount, the tenant should provide the Tribunal with reasons why the proposed increase should not be allowed.

Example:

Where -

CPI increase over specific period = 2.3%

Current rent = \$280

Proposed rent = \$300

2.3% of \$280 = \$6.44

20% of \$6.44 = \$1.28

\$6.44+ \$1.28 = \$7.72

Therefore, any increase of greater than \$7.72 would require the lessor to provide evidence as to why the increase should be granted. Any increase of less than \$7.72 would require the tenant to show why they thought the increase excessive.

Relevant CPI figures are available at www.tenantsact.org.au

The Tribunal will consider the following in deciding whether to allow an increase:

- the rental rate before the proposed increase;
- costs incurred by the lessor in relation to the property;
- services provided by the lessor to the tenant;
- the state of repair of the property;
- rental rates for comparable property;
- the value of any work or improvements made by the tenant with the consent of the lessor;
- any previous increases in the rental rate for that tenancy agreement;
- the value of fixtures and goods supplied by the lessor as part of the residential tenancy agreement; and
- anything else the Tribunal deems relevant.

Rent reduction

The tenant can apply to the Tribunal for an order that the rental rate be reduced. Tenants can apply for a reduction in rent if their use or enjoyment of the property has significantly diminished as a result of:

- the loss of any appliance, furniture, facility or service supplied by the lessor;
- the failure by the lessor to maintain the property in a reasonable state of repair (for matters which are the responsibility of the lessor);
- the failure by the lessor to maintain any appliances, furniture or facility to a reasonable state of repair depending on the condition at the commencement of the residential tenancy agreement;
- the failure by the lessor to provide and maintain locks and other security devices to ensure that the property is reasonably secure;
- the loss of the use of all or part of the property; or
- interference by the lessor with the tenant's quiet enjoyment of the property— this includes the tenant's right to use the property in reasonable peace, comfort and privacy.

Property maintenance

The tenant has the responsibility for maintaining the property in a reasonable condition throughout the residential tenancy agreement. The tenant should:

- not intentionally or negligently damage the property;
- notify the lessor of any damage as soon as practicable; and
- maintain the property and any contents in a reasonable and clean condition.

At the end of the residential tenancy agreement the tenant should leave the property in substantially the same condition as it was at the beginning of the tenancy, subject to fair wear and tear.

The tenant should not make any alterations to the property without the lessor's consent. For example, the tenant should not install shelves without the lessor's consent or install a pergola on the property without the consent of the lessor. A lessor must **not** be unreasonable in granting consent.

Important Information: A tenant may be responsible for damage or other breach of a tenancy agreement by visitors or guests who are on the premises with the permission of the tenant.

Repairs to the property

The lessor must provide the property, and any furniture, fittings and appliances which are included in the agreement, to the tenant in a reasonable state of repair, in a reasonable state of cleanliness, and in a reasonably secure condition.

The tenant must notify the lessor of any repairs that are necessary. The lessor must make the repairs within 4 weeks of being notified unless otherwise agreed. (If the repairs are urgent see below).

A lessor must arrange a suitable time with the tenant to make repairs.

A lessor is obliged to repair any faults which were present at the commencement of the residential tenancy agreement unless those faults were stated in the agreement. A lessor is obliged to repair faults which were present at the commencement of the residential tenancy agreement in order to make the property fit to live in.

If a tenant causes damage to the property through intent or negligence, he or she is obliged to make repairs to the standard of a tradesperson standard and at the tenant's own cost. A tenant must notify a lessor of any repairs that have been performed.

Urgent repairs

The tenant should notify the lessor of the need to carry out any urgent repairs as soon as possible. The lessor should carry out any repairs as soon as it is necessary, depending on the problem.

There are special guidelines for the performance of urgent repairs. Urgent repairs are those which are needed to correct serious faults or problems with

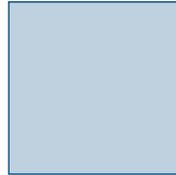
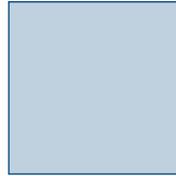
the property which could be dangerous to the tenant or could result in substantial damage to the property or its contents.



An urgent repair is work that is needed to repair:



- a burst water service;
- a blocked or broken lavatory system;
- a serious roof leak;
- a gas leak;
- a dangerous electrical fault;
- flooding or serious flood damage;
- serious storm or fire damage;
- a failure of gas, electricity or water supply to the property;
- the failure of a refrigerator supplied with the property;
- a failure or breakdown of any service on the property essential for hot water, cooking, heating or laundering;
- a fault or damage that causes the residential property to be unsafe or insecure;
- a serious fault in any door, staircase, lift or other common area which inhibits or unduly inconveniences the tenant in gaining access to and use of the property; or
- a fault or damage likely to cause injury to person or property.



When can the tenant authorise urgent repairs?

If the tenant is unable to contact the lessor, or the lessor fails to perform the urgent repairs, then the tenant may arrange for the repairs to be performed.

The tenant can only authorise urgent repairs with a maximum value equivalent to 5% of the rent of the property over a year.

Example:

52 weeks x \$280 per week = \$14 560

5% of \$14 560 = \$728

Therefore, the tenant can authorise urgent repairs to the value up to and including \$728.

If the tenant seeks to arrange for urgent repairs to be performed, then the tenant must follow these steps:

- 1 contact a qualified person nominated by the lessor in the residential tenancy agreement;
- 2 if no person is nominated, or the nominated person is unavailable, then a tenant must choose a qualified tradesperson; and
- 3 as the lessor is liable for the cost of the repairs, advise the tradesperson to bill the lessor directly.

If the tenant does not follow these procedures, then the tenant is personally responsible for the cost of any urgent repairs arranged by him or her.

Changing locks

A lessor or tenant may change the locks for the property with the consent of the other party. The party who changes the locks is responsible for the costs, unless both parties come to an arrangement where the costs will be shared.

In the case of an emergency, the lessor or the tenant can change the locks without the consent of either party. If either party changes the locks, then they must give the other party a copy of the key as soon as possible.

Ongoing property expenses

Lessor

The lessor is responsible for:

- the cost of any rates and taxes relating to the property;
- any services where there is not a separate metering device;
- the annual supply charge for water and sewerage;
- any body corporate fees if the property is a flat, unit or apartment; and
- services for which the lessor agrees to be responsible.

Installation of services

Where the tenant requires essential services to be installed in the property, the lessor shall pay for the cost of installing these services, for example gas, electricity and water.

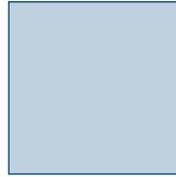


Ongoing expenses

Use of services

The tenant is responsible for the cost of services used during the tenancy provided there is a separate meter, for example electricity, gas, water and telephone.

The lessor is liable for the cost of services up to the commencement of the residential tenancy agreement and after the agreement has expired.



Metered services

The lessor is responsible for any services connected in the lessor's name. At the commencement of the residential tenancy agreement, the lessor must arrange for readings or measurements of those services. The lessor must give the tenant an opportunity to verify any reading or measurements. The lessor should also arrange for readings of the same metered services at the end of a residential tenancy agreement. If the lessor fails to arrange for the meter to be read, then the lessor shall be responsible for the payment of these services after the last reading or measurement date (also see Section 5—reading of metered services).

Inspections

How often?

The lessor may inspect the property following the commencement of the residential tenancy agreement during the first and last month of the agreement. In addition, the lessor may also inspect the property twice in a 12 month period.

Notice

The lessor must give the tenant written notice 1 week in advance of any inspection. The inspection shall take place at a time which is agreed to and is convenient to both parties. However, if both parties cannot agree on an appropriate time, then the lessor can apply to the Tribunal for an order for access to the property.

The lessor shall not have access to the property:

- on Sundays;
- on public holidays; or
- before 8.00 am and after 6.00 pm

unless the lessor has the consent of the tenant or is carrying out urgent repairs.

Entry by the lessor

The lessor cannot enter the property without the consent of the tenant, except in emergencies.

Abandoned property

A lessor can enter the property if the lessor has reasonable grounds for believing that the property has been abandoned. If a lessor does enter the property without reasonable grounds when it has not been abandoned then severe penalties can be imposed.

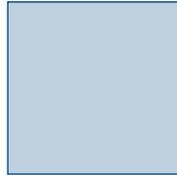
Access to the property by other parties

New tenants

If a tenant is vacating the property, then he or she must allow reasonable access to the property in the last 3 weeks of the residential tenancy agreement to allow prospective tenants to view the property. The lessor must give the tenant 24 hours notice of any inspection.

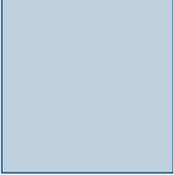
New owners

If the owner is selling the property, the tenant must allow reasonable access to the property upon 24 hours notice to allow an inspection by prospective purchasers. The tenant is only required to give access to prospective purchasers if the property owner has a genuine intention to sell the property and has previously informed the tenant in writing of his/her intention to do so.



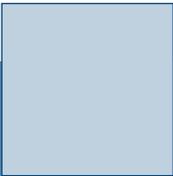


Section 4

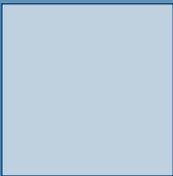


Ending the tenancy

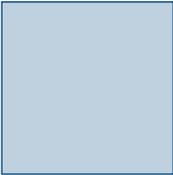
If the tenant wants to leave the property, or the lessor wants the tenant to leave, there are certain procedures that must be followed to terminate the residential tenancy agreement.



Many tenancy disputes arise when the residential tenancy agreement ends. It is important that both tenants and lessors apply the correct procedures when they wish to terminate a residential tenancy agreement.



When terminating a residential tenancy agreement there are some terms that you should be aware of:



Fixed term residential tenancy agreement—is an agreement between a tenant and a lessor for a specific period of time. For example, a 12 month residential tenancy agreement is the most commonly used fixed term agreement.

Periodic residential tenancy agreement—is an agreement between a tenant and lessor which has no fixed period. A month to month residential tenancy agreement is an example of a periodic tenancy. Periodic leases automatically start at the end of a fixed term.

Standard terms and conditions—the Residential Tenancies Act prescribes that certain terms and conditions are included in all residential tenancy agreements. These terms are included in the Schedule to the Act and have already been discussed in Section 1 of this book.

How a residential tenancy agreement can end

A residential tenancy agreement can only end in the following situations:

- a fixed term residential tenancy agreement ends and the tenant vacates the property on or after the date of expiration;
- the tenant gives the lessor notice of an intention to terminate the tenancy and vacates the property in accordance with that notice;
- the Residential Tenancies Tribunal terminates the agreement;
- the Residential Tenancies Tribunal makes a Termination and Possession Order;
- the tenant abandons the property;
- a person other than the lessor may terminate the agreement if he or she is a successor in title to the lessor;
- the tenant and the lessor agree in writing to terminate the agreement;
- where the tenant and the lessor are the same person; or
- where the lessor or tenant repudiates the agreement and the other party accepts that repudiation and the property is vacated.

This book explains some of the more commonly used termination procedures. If you require further information, contact the agencies listed in Section 7 of this book.

Either the tenant or the lessor can seek to terminate a residential tenancy agreement. An agreement can be terminated by giving notice in the approved form or by the Residential Tenancies Tribunal. Whether you give notice or immediately approach the Tribunal will depend upon the reasons for seeking termination.

Note: A lessor cannot terminate an agreement by just giving notice. If the tenant does not vacate they **MUST** apply for termination through the Residential Tenancies Tribunal.

The Act contains special provisions for termination of a residential tenancy agreement for crisis accommodation.

For further assistance in relation to the process of terminating a residential tenancy agreement visit the Residential Tenancies Tribunal website at:

www.courts.act.gov.au

This website contains the standard residential tenancy agreement, Tribunal legislation, previous Tribunal decisions, information sheets, application forms and approved notices.

Termination by the tenant

A tenant can terminate a residential tenancy agreement:

- by giving appropriate written notice and vacating in accordance with that notice;
- via the Residential Tenancies Tribunal; or
- with the agreement of the lessor.

Termination by notice

A tenant can terminate a residential tenancy agreement by giving notice in the approved form where:

- the lessor has breached the terms and conditions in the residential tenancy agreement;
- the property is not fit for habitation or the property will not be available due to government action;
- a fixed term residential tenancy agreement has ended; or
- a residential tenancy agreement is periodic.

Where a tenant terminates an agreement by notice, rent is still payable until the date specified in the notice of intention to vacate, or until the tenant vacates the property, whichever is the later.

Note: Upon receiving notice to terminate, a lessor can either accept the notice or apply to the Residential Tenancies Tribunal for compensation. If the lessor is seeking compensation they have to mitigate their losses by taking reasonable steps to find a replacement tenant.

Breach of terms and conditions

If the lessor has breached the terms and conditions in the lease agreement, the tenant can seek to terminate the agreement by applying directly to the Residential Tenancies Tribunal or by giving notice to the lessor by:

- 1 written Notice to Remedy—the tenant must give the lessor written notice requesting the breach be remedied within 2 weeks;
- 2 breach remedied—if the lessor remedies the breach within the 2 week period, the tenancy continues;
- 3 notice of intention to vacate—if the breach is not remedied, or it cannot be remedied, the tenant can give a notice of intention to vacate the property with a notice period of 2 weeks; or
- 4 breach remedied—if the breach is remedied during the 2 week period during the notice of intention to vacate, the tenant has the choice of continuing the tenancy or vacating at the expiration of the 14th day.

The agreement is terminated on the date specified in the notice of intention to vacate.

Property not fit for habitation or not available due to government action

In exceptional circumstances, where the property is not fit for habitation (for example, an internal wall has collapsed or the roof has blown off) or is unavailable due to government action (for example, an area has been evacuated for quarantine purposes), the tenant has two options:

- the tenant can terminate the residential tenancy agreement by giving the lessor 2 days notice. The agreement terminates at the end of the 2 days; or
- if the tenant does not give notice to terminate the agreement, then the agreement continues. However, if the tenant does not occupy the property for the period when the property is uninhabitable, he or she is not liable to pay rent. When the tenant resumes occupancy of the property, he or she must continue to pay rent.

At the end of a fixed term residential tenancy agreement

At the end of a fixed term residential tenancy agreement, for example at the end of a 12 month tenancy, the tenant can terminate the tenancy by giving the lessor 3 weeks written notice. However, at the end of the fixed term period, if a tenant does not terminate the fixed term residential tenancy agreement, the tenancy will automatically become a periodic tenancy.

Note: The above applies only to tenants. A lessor cannot use these grounds for termination.

Termination by the tenant of a periodic tenancy

A tenant can terminate a periodic residential tenancy agreement at any time by giving the lessor 3 weeks notice. If the tenant abandons the property or does not give the lessor the correct 3 weeks written notice, then the lessor is entitled to claim from the tenant compensation up to 3 weeks rent.

Termination by the Tribunal

A tenant can approach the Residential Tenancies Tribunal directly to terminate a residential tenancy agreement during a fixed term or periodic tenancy if:

- the lessor has breached the standard terms and conditions in the lease agreement;
- the tenant would suffer significant hardship if the agreement were to continue;
- the tenant or the tenant's family or the tenant's property has suffered, or is likely to suffer, damage or injury by the lessor; or
- the lessor made a false or misleading statement, which resulted in the tenant entering into the residential tenancy agreement.

To have a residential tenancy agreement terminated by the Residential Tenancies Tribunal, a tenant must make an application in writing to the Tribunal.

Tenants can obtain application forms and assistance from the Tribunal (www.courts.act.gov.au). Advice and assistance can also be provided by the Tenants' Advice Service.

Termination with the agreement of the lessor

If the tenant and the lessor agree in writing, a residential tenancy agreement can be terminated at any time in accordance with their written statement.

Termination by the lessor

A lessor can terminate a residential tenancy agreement:

- via the Tribunal; or
- with the agreement of the tenant.

If the tenant does not vacate the premises in response to a valid notice by the lessor, the tenant may be liable for any costs or damages the lessor suffers as a result of the tenant's breach of the tenancy agreement. These costs and damages can, in some cases, be considerable.

Termination by notice

If a lessor wants to terminate a tenancy he/she must follow the processes set out in the standard terms in relation to the reason for seeking termination. If they have grounds they generally must first serve written Notice to Remedy before issuing the tenant with a written Notice to Vacate. If the tenant remains after the due date of vacation, then the lessor must seek a Termination and Possession Order from the Tribunal. If the tenant does not vacate the property, there is a risk to the tenant of paying the added costs of the lessor (such as damages relating to alternative accommodation) and added rent.

A lessor can issue the tenant with a Notice to Vacate if:

- the tenant has failed to pay rent;
- the tenant has breached any term or condition of the residential tenancy agreement, other than non-payment of rent;
- the property is not fit for habitation or the property will not be available due to government action; or
- the residential tenancy agreement is periodic and the lessor has grounds specified in relation to periodic tenancies.

The lessor may also issue a notice without cause (see page 38).



Failure to pay rent

A lessor may issue a Notice to Vacate for a tenant's failure to pay rent for 1 week (ie. the rent must be overdue), by complying with the following:



- the lessor must first serve the tenant with a Notice to Remedy, on or after the 8th day after the rent was due;
- the Notice to Remedy must state that all of the outstanding rent to date is to be paid within 1 week of the Notice to Vacate and that no further action will be taken if the rent is paid; and
- if the rent is not paid within 1 week following the Notice to Remedy, the lessor can issue the tenant with a Notice to Vacate the property within 2 weeks.



However, if the tenant has been given a Notice to Remedy on two previous occasions, a lessor is not required to issue a Notice to Remedy for a third failure to pay rent—the lessor can automatically issue a Notice to Vacate.



If the tenant does not vacate the property within the 2 week period specified in the Notice to Vacate, the lessor must apply to the Tribunal for a Termination and Possession Order before the lessor can evict the tenant.

It is important to note that only the Residential Tenancies Tribunal can order eviction. A NOTICE TO VACATE DOES NOT TERMINATE THE TENANCY.

Breach of any other term and condition of the residential tenancy agreement

If the tenant is in breach of the terms of the agreement or the Act, then the lessor may issue a Notice to Vacate, subject to the following:

- 1 written Notice to Remedy—the lessor must serve the tenant with a written notice requesting that the breach be remedied within 2 weeks;

- 2 breach remedied—if the tenant remedies the breach within 2 weeks, then the residential tenancy agreement will continue; or
- 3 Notice to Vacate—if the tenant fails to remedy the breach within the 2 week period specified in the Notice to Remedy, then the lessor can give the tenant a Notice to Vacate which requires the tenant to vacate the property within 2 weeks.

However, if a tenant has breached the agreement on two previous occasions, a lessor is not required to issue a Notice to Remedy for a third breach—the lessor can automatically issue a Notice to Vacate.

If the tenant does not vacate the property within the 2 week period specified in the Notice to Vacate, the lessor must apply to the Tribunal for a Termination and Possession Order before the agreement can be terminated and the tenant evicted.

Property not fit for habitation or not available due to government action

In exceptional circumstances where the property is not fit for habitation (for example, an internal wall has collapsed or the roof has blown off) or is unavailable due to government action (for example, an area has been evacuated for quarantine purposes), the lessor has two options:

- 1 the lessor can terminate the residential tenancy agreement by giving the tenant 1 week's notice. The agreement terminates at the end of the week; or
- 2 if the lessor does not give the tenant notice, then the agreement continues. However, if the tenant does not occupy the property for the period when the property is uninhabitable, the tenant is not liable to pay rent. When the tenant resumes occupancy of the property, the tenant must continue to pay rent.

Without cause

The lessor can give a Notice to Vacate the property without any reasons. The lessor must give 26 weeks notice to the tenant to vacate the property. If it is a fixed term tenancy, then the 26 weeks must not expire during the fixed term period. The tenant may vacate the property within the last 2 weeks of the notice expiring, provided that the tenant gives the lessor 4 days notice of an

intention to vacate. The tenant can also give 3 weeks notice at any time when the lease is periodic.

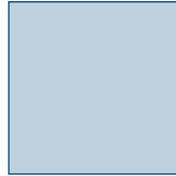


Residential tenancy agreement is periodic

The lessor can terminate a periodic tenancy by issuing a Notice to Vacate only if:



- the owner of the property or an immediate relative of the owner genuinely intends to live in the property—the lessor must give 4 weeks notice;
- a person who is not an immediate relative of the owner, but has a close family or personal relationship with the owner, genuinely intends to live in the property—the lessor must give 4 weeks notice;
- the owner has a genuine intention to sell the property—the lessor must give 8 weeks notice; or
- the owner has a genuine intention to reconstruct, renovate or make major repairs to the property which cannot reasonably be carried out with the tenant in residence—the lessor must give 12 weeks notice.



If the tenant has been given a Notice to Vacate on any of the above grounds, the tenant can vacate the property within the last 2 weeks of the notice period, provided that the tenant gives the lessor 4 days notice of an intention to vacate.

If the tenant does not vacate the property in accordance with any Notice to Vacate, the lessor must apply to the Tribunal for a Termination and Possession Order to have the tenant formally removed from the property.

Termination by the Tribunal

A lessor can make an application to the Tribunal for a Termination and Possession Order of a residential tenancy agreement during a fixed term or periodic tenancy if:

- the tenant has failed to pay rent and the lessor has issued a Notice to Vacate and the tenant has not vacated the property;

- the tenant has seriously breached the standard terms and conditions in the residential tenancy agreement, other than failure to pay rent;
- the lessor has issued the tenant with a Notice to Vacate on grounds permitted by the standard terms and conditions and the tenant has failed to vacate the property in accordance with the notice;
- the lessor would suffer significant hardship if the agreement were to continue;
- the lessor or the lessor's family or the lessor's property has suffered or is likely to suffer damage or injury by the tenant;
- the residential tenancy agreement was entered into as part of a contract of employment and the tenant has ceased to be employed by the lessor;
- the tenant made a false or misleading statement, which resulted in the lessor entering into the residential tenancy agreement; or
- the tenant has assigned or sublet the property without the written consent of the lessor.

A lessor must make an application to the Tribunal for a Termination and Possession Order. Lessors can obtain application forms from the Tribunal and can also obtain the forms and assistance from the Residential Tenancies website (www.courts.act.gov.au).

The Termination and Possession Order will specify the date that the residential tenancy agreement will terminate and the date by which the tenant must vacate the property.

Termination with the agreement of the tenant

If the tenant and the lessor agree in writing, a residential tenancy agreement can be terminated in accordance with their written statement.

Abandonment of the residential tenancy agreement by the tenant

Where a tenant abandons the property before the end of the tenancy, the agreement terminates on the day of abandonment.

If a tenant abandons a tenancy, the lessor may apply to the Tribunal for compensation from the tenant. A lessor is entitled to a maximum of 25 weeks rent or the value of rent for the unexpired portion of the agreement, whichever is the lowest amount. Where the lessor is seeking compensation they have a duty to mitigate their losses.



Warrants of eviction

If the tenant continues to reside in the property in contravention of a Termination and Possession Order made by the Tribunal, the lessor may approach the Registrar of the Tribunal for a warrant of eviction unless the order itself automatically operates as a warrant of eviction.



A warrant of eviction authorises the Police to take appropriate action to remove the tenant from the property. Unless there are exceptional circumstances, the Police are required to give the tenant 2 days notice before exercising their powers.



Compensation to the lessor

If a tenant has been given a Termination and Possession Order, and fails to vacate the premises, the lessor may make an application to the Residential Tenancies Tribunal for a compensation order. The Tribunal may order the tenant to pay any rent for the period during which the tenant remains in possession of the premises.

The Tribunal may also order that the tenant pay the reasonable costs of the lessor in applying for a warrant of eviction and having the warrant executed.



Section 5

When the tenant leaves the property— refund of a rental bond

When a tenant leaves a property there may be a number of matters that need to be considered.

It is advisable when the tenant leaves the property that both parties arrange for a joint inspection of the property. Both parties should endeavour to come to an arrangement to rectify any problems which are identified and agreed to as part of the final inspection. The tenant should be given a reasonable opportunity to rectify any damage he/she is responsible for.

Rental bonds

The rental bond cannot be used to cover rent

The tenant cannot use the rental bond to pay the rent for the last weeks of the tenancy. A tenant cannot stop paying the rent a month before the end of the tenancy on the assumption that the bond will cover the rent.

What can be deducted from a bond?

The bond can be used to pay for:

- any damage caused by a tenant—the cost of repairs to the property to restore it to substantially the same condition as it was when the tenant moved in, subject to fair wear and tear;
- any outstanding rent owed under the agreement at the time the agreement is terminated;
- the cost of replacing any fuel used by the tenant during the course of the tenancy which was supplied by the lessor;
- any legal costs incurred by the lessor for assigning or transferring the tenant's rights under the residential tenancy agreement; and

- any amount expressed in a term of the agreement to be deductible by the lessor from the bond, if the term is endorsed by the Tribunal.

When and how can a bond be released?

Either party can make an application to the Office of Rental Bonds (ORB) for the release of a bond. This application is normally made after the completion of the residential tenancy agreement.

The ORB requires that a Refund of Bond Form is completed to claim the bond. It is important that all agents/lessors ensure that their claims for refund of bonds are correct before submitting them to the ORB.

Important: Never sign a blank form. Ensure the form is filled out fully before signing.

Refunds before termination of the tenancy

An application can be made before the completion of the residential tenancy agreement if:

- the application is made by both parties;
- the application is made by the lessor for the bond to be paid to the tenant;
- the application is made by the tenant for the bond to be paid to the lessor; or
- the Tribunal orders that a portion or the full bond is to be paid out to the tenant or lessor.

More complex refunds after termination of the tenancy—14 day letters

If there is any doubt about the validity of a Refund of Bond Form due to:

- signatures not matching;
- erasures not signed in full by all parties;
- deliberate alterations without the consent of all parties;
- a claim by either party who states they signed a blank form, which did not have any disbursement details; or
- tenant or lessor not signing

the ORB will notify all parties seeking their consent to the refund. If no counter claim is made within 10 working days of the notice, the claim will be paid out in accordance with the claim made on the refund form as submitted prior to advising all parties to the bond.

This process protects the rights of all parties to the tenancy/bond.

Distribution of bond between tenants

At the time a bond is lodged, it is assumed that if there is more than one party to the bond, the bond is attributed in equal shares. However, if this is not the case, the ORB will require a signed statement from the parties indicating the distribution of the bond at the time the refund is claimed.

Change of name

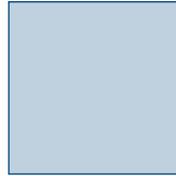
It is very important, given the requirement of the ORB, to validate all claims that information regarding the tenancy is up to date. For example, if a tenant changes his or her name, it is important that the ORB is formally advised. This will ensure that at the time of refund there are no issues regarding valid signatures.

Change of address

It is also very important that address details are notified to the ORB for all parties. The only mechanism available to the ORB to process a unilateral bond refund is to place the refund on a 14 day letter process. This means that the most recent address will be used to notify all parties by mail that a claim for refund has been received. See page 44 for more information on 14 day letters.

Disputes

If there is a dispute about the refund of a bond between the lessor and the tenant/s, it is not the role of the ORB to mediate. Disputes must be



handled through negotiation between the parties, by mediation or by written application to the Residential Tenancies Tribunal.

Refund Methods

The ORB can only refund a bond by Electronic Funds Transfer (EFT) or by cheque.

If a tenant is in urgent need of his or her refund, it is recommended they use the EFT option. If a bond is refunded by EFT the funds will be available in the customers account within 48 hours of processing.

Cheques issued by the ORB have a three to five day clearance period.

Reading of metered services

If the tenant vacates the property after giving the lessor the required notice, the lessor should arrange for any metered services connected in the lessor's name to be read before the day after the required notice expires. If the lessor fails to do so, then the lessor will be responsible for the costs of those services from the last time the meter was read.

If the tenant fails to give the required notice to the lessor and vacates the property, the lessor should arrange within a reasonable period of time for all metered services in the lessor's name to be read. It will be the tenant's responsibility to pay the cost of those services.

Uncollected goods

Items that have been left in the property once a tenant has vacated the property become abandoned goods. The *Uncollected Goods Act 1996* imposes strict guidelines for the disposal of abandoned goods. A lessor cannot simply dispose of the goods, without following the process set out in the Act. A copy of a brochure explaining uncollected goods can be obtained from the Residential Tenancies Tribunal or by calling the ACT Office of Fair Trading on (02) 6207 0400.

Section 6

Residential Tenancies Tribunal– dispute resolution

It is always best to try and resolve a dispute with the other party. However, if you cannot resolve your dispute, the *Residential Tenancies Act 1997* provides a quick and efficient dispute resolution process.

Residential Tenancies Tribunal

The Residential Tenancies Tribunal is an independent body which hears and decides applications for orders from tenants and lessors. The Tribunal is a quick and inexpensive way of resolving disputes. Tribunal hearings are informal and the emphasis is on the resolution of disputes.

The Tribunal makes its decisions in the form of orders and can make a lessor or a tenant comply with its rulings. For example, the Tribunal can make orders that:

- a rent increase is excessive;
- compensation is to be paid to a tenant or lessor; or
- the residential tenancy agreement be terminated.

A fee will apply for any application to the Tribunal.

The person who makes the application must provide enough evidence to convince the Tribunal on the balance of probabilities that his/her application should be approved.

Dispute resolution

Upon making an application to the Tribunal, a party may ask the matter be dealt with in mediation or by more informal methods. An application form for

this purpose is available from the Tribunal. Upon receiving an application, the Registrar of the Tribunal can:

- contact anybody relevant to the tenancy dispute to seek to resolve the matter;
- contact anybody relevant to the tenancy dispute to request further information;
- refer the dispute to an approved mediator if both parties agree and the Registrar is of the opinion that mediation is the best solution to resolve the matter;
- conduct a preliminary conference or refer the application to a referee if the Registrar considers that there is a chance that the dispute can be resolved; or
- refer the dispute to the Residential Tenancies Tribunal for a hearing.

Remedies available to the tenant

A tenant can approach the Tribunal for an order:

- allowing a term or condition which is inconsistent with the Act to be binding on a lessor;
- allowing the whole or part of the rental bond to be released;
- terminating a residential tenancy agreement;
- specifying that a Notice to Vacate was invalid;
- granting compensation if an invalid Notice to Vacate was given by the lessor;
- disallowing part or the whole of a proposed rental increase;
- to reduce the amount of rent that is payable;
- for the mediation of a dispute with a lessor; or
- for the review of a listing on a tenancy database.

Remedies available to the lessor

A lessor can approach the Tribunal for an order:

- allowing a term or condition which is inconsistent with the Act to be binding on a tenant;

- allowing the whole or part of the bond to be released;
- terminating a residential tenancy agreement;
- granting compensation if the tenant has failed to vacate the property in accordance with an order of the Tribunal, or for any costs incurred by the lessor in applying to have a tenant evicted;
- granting compensation if the tenant has abandoned the property;
- specifying that a Notice to Vacate was invalid, or for compensation if an invalid notice was given by the tenant;
- allowing for an increase in rent; or
- for mediation of a dispute with a tenant.



Penalties

The Act includes serious penalties for non-compliance with the Act or with Residential Tenancies Tribunal orders. Non-compliance with a Tribunal order may result in a fine of up to \$5,000 and can amount to an offence with a maximum penalty of \$5,000 and/or imprisonment for 6 months.

The Act includes a number of offences where the penalty is a fine and/or imprisonment. For example, it is an offence to do something in a Tribunal hearing that amounts to contempt. The maximum penalty for this offence is \$10,000 and/or imprisonment for 1 year.

Section 7

Problems— where to go for further information

Note: The street addresses of the following offices are current as at 30 April 2007. If you intend visiting any of the offices, it would be advisable to telephone or check the relevant website for updated locations.

ACT Office of Regulatory Services (ORS)

ORS administers a range of regulatory activities in the ACT. The office incorporates the functions of:

- the Office of Fair Trading
- the Registrar-General's Office
- ACT WorkCover
- regulatory activities for parking operations, tobacco licensing and smoke-free regulation
- approvals and administration of business activities associated with the use of public land and
- the regulation of charitable collections

Office of Fair Trading

The Registration and Client Services Unit of ORS regulates more than 30 occupations and industries, including the real estate industry (agents and registered salespersons).

The Renting Book is authorised by the Commioner for Fair Trading under Clause 13 of Schedule 1 to the *Residential Tenancies Act 1997*.

Copies of the book can be obtained from the ACT Office of Regulatory Services (Offices of Rental Bonds and Fair Trading).

Street Address

Office of Fair Trading
255 Canberra Avenue
FYSHWICK ACT 2609

Phone Number

(02) 6207 0400

Fax Number

(02) 6207 0538

Website

www.fairtrading.act.gov.au

Business Hours

Monday–Friday
9.00 am to 4.30 pm

Website Access Generally

If you do not have personal access to the Internet, then you can gain access through public libraries or internet cafes.

Registrar-General's Office Office of Rental Bonds (ORB)

The ORB delivers registration and access services for the ACT community. The office undertakes the administration of Land Titles; Births, Deaths and Marriages; Business Names; Associations; and the ACT Residential Rental Bonds Scheme.

The ORB receives rental bonds for ACT residential tenancies and holds them in trust. The Office also refunds rental bonds.

Rental Bonds forms are available from the Registrar-General's website.

Street Address

255 Canberra Avenue
FYSHWICK ACT 2609

Postal Address

PO Box 225
CIVIC SQUARE ACT 2608

Phone Number

(02) 6207 1178

Fax Number

(02) 6207 1181

Website

www.rgo.act.gov.au

Business Hours

Monday–Friday
9.00 am to 4.30 pm

Other agencies that provide assistance to tenants

Residential Tenancies Tribunal

The Residential Tenancies Tribunal, which is a tribunal of the ACT Magistrates Court, is an independent body which has exclusive jurisdiction to hear and determine all matters arising from private and public residential tenancy agreements.

The Tribunal website contains a copy of the legislation, previous Tribunal cases and a copy of the standard residential tenancy agreement.

Street Address

Ground Floor
ACT Magistrates Court Building
4 Knowles Place
CANBERRA CITY ACT 2601

Postal Address

Deputy Registrar
Residential Tenancies Tribunal
GPO Box 370
CANBERRA ACT 2601

Phone Numbers

(02) 6217 4259
(02) 6217 4260

Fax Number

(02) 6217 4505

Website

www.courts.act.gov.au

Tenants' Advice Service (TAS)

TAS provides free legal advice and assistance on tenancy matters to all tenants.

TAS also provides free tenancy workshops and presentations.

Phone Number

(02) 6247 2011 for all advice
(9.30am - 1.00pm Monday to Friday)
or
for general printed information **phone**
(02) 6247 1026

Website

www.welfarerightsact.org

Welfare Rights and Legal Centre

The Centre provides free legal advice and assistance on tenancy matters to tenants on low incomes with a focus on Housing ACT clients.

Phone Number

(02) 6247 2177
(9.30am - 1.00pm Monday to Friday)

Website

www.welfarerightsact.org

Real Estate Institute of the ACT (REIACT)

REIACT represents the views of the real estate profession in the ACT and preserves and maintains its integrity and status and suppresses dishonourable and unprofessional conduct and practices.

Street Address

Real Estate House
18 Thesiger Court
DEAKIN ACT 2600

Postal Address

PO Box 22
WEST DEAKIN ACT 2600

Phone Number

(02) 6282 4544

Fax Number

(02) 6285 1960

Website

www.reiact.com.au

Housing ACT Customer Assistance Helpline

NOTE: for Housing ACT tenants only

Phone Number

(02) 6282 4544

Housing ACT- rental bond loans

NOTE: for Housing ACT tenants only

Street Address

Nature Conservation House
Cnr Benjamin Way and Emu Bank
BELCONNEN ACT 2617

Phone Number

(02) 6207 1150