

New Publication out: Tasmanian Rents - Community Legal Education on Tenancy - Solicitors' selected Cases - What happens to Bond Money?

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Hi Tenants' Union supporter,

we hope you're keeping warm as Tasmania moves into the cold season. Rug up and read our news from the world of Tasmanian Tenancy in the first quarter 2015. Learn more about our new publication *Tasmanian Rents* and find out how a session with our Training and Development Officer Rebecca Taylor will not only provide you with knowledge and support that literally hits home, but can also be a lot of fun. Our solicitors Benedict Bartl and Peter Foster will tell you about cases they have been involved in. Ben discusses his experiences with tenants who have been discriminated against on the grounds of disability. While Pete explains what you should check when your landlady or landlord wants to kick you out of your home to sell the property. To wrap up, we have a look into the 'More Bang for your Bond' campaign from our colleagues in NSW and enquire what happens to money derived from bond interest in Tasmania.

Warm regards,
Your Tenants' Union



The Tasmanian Tenancy World in 2015

What's been going on?

The first quarter of 2015 has passed quickly and quite a bit has happened in the Tasmanian tenancy sector.

In early March Housing Tasmania introduced a three strikes policy for Housing Tasmania tenants, meaning that tenants engaging in anti-social behaviour will be issued with warnings for the first two incidents and will then face eviction on the third occasion. We are very interested to hear how the implementation of the three strikes policy is working in practice. If Housing Tasmania

tenants have any information about the policy, please [contact us](#).

At the same time the Residential Tenancy Amendment Bill 2015, including Minimum Standards for rental properties in Tasmania, regulations on the photographing of tenants' possessions and corrections of drafting errors arising from last years residential tenancy law changes, went back before Parliament. While we cannot predict when the changes will be implemented, it seems almost certain that they will. We are very excited about that!

With all other amendments (other than those mentioned above) in effect for half a year now, some confusion about the shifting of responsibilities between the Magistrates Court and the Residential Tenancy Commissioner has arisen.

In a nutshell:

The Residential Tenancy Commissioner became the new umpire for disputes about repairs with the introduction of the amendments on 1 October 2014. Find more information [here](#).

The Commissioner also became responsible for those tenants on new leases, commenced after 1 October 2014, that face 'unreasonable' rent increases. However, there are transitional regulations in place for tenants on leases entered before 1 October 2014. If tenants think their rent increases are unreasonable and the lease was entered into prior to 1 October 2014 they will have to dispute that at the Magistrate Court. After 1 October 2015 ALL rent increase cases will be handled by the Residential Tenancy Commissioner. Find more details about disputing rent increases [here](#).

New Publication: *Tasmanian Rents*

On the eve of leaving the Tenants' Union, our statistics wiz Phil Hoffen launched [Tasmanian Rents](#), a new publication providing concise information on median rents from all corners of Tasmania. The data is based on information provided by both the landlord and tenant when lodging a bond with the Rental Deposit Authority.



In the first issue we take a closer look at the 2014 December Quarter. We compare the weighted median rents of Tasmania's three geographical regions, which are rents that comprise all property sizes, with their equivalents from the previous quarter, the 2013 December Quarter and the last three years. In more detailed overviews, you will find median rents for 2014 for different property sizes (1 bedroom, 2 bedroom etc) in particular regional areas and their growth since 2013.

In summary, between October and December 2014 rents were highest in the South with households paying \$288 per week and lowest in the North West, where the weighted median rent was \$219, with the all Tasmanian weighted rent of \$255 right in the middle and rent in the North slightly below at \$240.

Compared to the 2013 December quarter rents have increased in the North by 1.6% and in the South by 3.3%, but slightly decreased in the North West by 1.6%. Interestingly, the North West recorded the biggest quarterly increase after a low in September 2014.

Overall, quarterly weighted median rents in December 2014 were remarkably similar to rents seen in early 2012.

Do you want to know more about rents in your neighbourhood or what to expect when up- or down sizing? Check the entire statistics in [Tasmanian Rents](#) on our website.

CORRECTION: *The report defines small data sizes as 11-29 bonds lodged. It should instead say small data sizes (10-29 bonds lodged) on all occasions and insignificant data sizes (0-9 bonds lodged) as is.*

One woman's Quest to educate Tassie and land a magnet on every fridge in the state!

Rebecca Taylor is the Training and Development Officer with the Tenants' Union in Hobart. A key aspect of her role is to go out into Tasmanian communities and run information sessions on all things tenancy. Here she explains what to expect, when you join a session with her. 'Tenancy information session' sounds decidedly boring? Not with Bec!

Tenancy legislation is a very dry topic, lots of legal speak about rights and responsibilities, but it is legislation that ultimately has a big impact on the home of so many Tasmanians. It becomes personal. When I go out into the community and meet with people I do my best to tailor my sessions to suit the audience, what may be an issue for one group within the community is not necessarily an issue for another group. I try to have fun.

So, what can you expect if you come to a tenancy info session? Well, I might do the tea towel song and dance in relation to smoke alarms, I may tell you my favourite Parsley story to do with a tenants right to quiet enjoyment or we may have a giggle over the story about the water meter but what I can guarantee is that you will walk away knowing more about tenancy rights and responsibilities, how the Law works at a grassroots level and what you can do if you, or someone you know, is experiencing a tenancy issue. And magnets!! You get a magnet, I am on a one-woman mission to have a TUT magnet on every Fridge in Tasmania, I welcome your help.



Upcoming Tenancy Information Sessions

22 April 2015 - Tasmanian Aboriginal Centre, Launceston
 1 May 2015 - Centacare Settlement Grants Program, Hobart
 7 May 2015 - Centacare Humanitarian Support Services, Hobart
 14 May 2015 - Centacare Humanitarian Support Services, Hobart

Discrimination in Tenancies on the grounds of Disability

The Tenants' Union often receives phone-calls and tenants dropping-in who have been discriminated against. The single mother refused a house because she has children. The rental property that is advertised as unavailable to people of a particular ethnic group. The visually impaired person with a guide dog who is refused a rental property because they have a pet. All of these cases amount to discrimination and are contrary to Tasmania's *Anti-Discrimination Act 1988* (Tas).

Under the *Anti-Discrimination Act 1988* it is unlawful to discriminate against someone in the provision of accommodation on the basis of a range of factors including

- Race
- Age
- Sexual Orientation
- Gender
- Disability
- Parental Status
- Irrelevant Criminal Record

So, a landlord who states that they will not consider you for their rental property on the basis of your skin colour or because you have children will be in breach of the *Anti-Discrimination Act 1988*. It should also be noted that the *Residential Tenancy Act 1997* (Tas) clearly provides that a guide dog is not a pet.

As the examples listed above demonstrate, discrimination occurs all the time, the difficulty is proving it with most Real Estate Agents and landlords informing you that they preferred some other applicant.

A *suspicion* that your landlord and/or Real Estate Agent have discriminated against you is unlikely to be successful. Your case will be strengthened by evidence. Did a third party overhear the offensive comment? Are there emails or text messages to support your assertions?

Discrimination on the basis of disability in accommodation



One of the more common grounds of discrimination in accommodation is on the basis of disability, particularly in circumstances where the failure to modify premises will mean that the tenant may have to vacate their home. As the following case studies demonstrate, tenants do have strong grounds for requesting that modifications be made to their homes, particularly where the request for modifications is considered 'reasonable'.

Peter Walters* a 65 year-old pensioner moved into a rental property seven years ago. Since then his health has gradually deteriorated and after a number of operations to his hip and legs he has great difficulty stepping into the bathtub in order to shower. An occupational therapist recommended to Peter's landlord that they install a walk-in shower. Peter's landlord refused, instead offering to re-locate him to alternative accommodation.

The Office of the Anti-Discrimination Commissioner found that there was indirect discrimination because the landlord was imposing a condition on the tenant that in order to enjoy the full amenity of their accommodation, including showering and bathing facilities, they be able to step into a bath. The condition disadvantaged Peter because of his impaired mobility, more than it disadvantaged tenants without such medical conditions.

A key question in such cases is whether the landlord is imposing a condition, requirement or

practice, which is 'unreasonable' in the circumstances. The requirement, for example that the landlord have to install a lift for a wheelchair bound tenant who cannot access the second storey of a house may be found to be an unreasonable condition because of the cost and substantial renovations involved. In Peter's case (above), he lived in a block of units all owned by the same landlord. Knocking on every door and talking to his neighbours Peter was able to demonstrate that walk-in showers had already been installed in a number of other units, weakening the landlord's claim that the cost of installing a walk-in shower would be unreasonable. Without the need for a conciliation conference the landlord agreed to carry out the modifications.

In determining whether the modifications are 'unreasonable', all the circumstances must be considered, including any benefit or detriment the modifications may cause, the costs involved in making the modifications and the financial circumstances of the landlord.

In this and similar cases the Tenants' Union acted for the tenant. If you believe that you are being or have been discriminated against, please do not hesitate to [contact us](#) and talk to one of our lawyers.

*Name has been changed.

When your Home is to be Sold

Notice to Vacate in a non fixed term Lease

A non-fixed term lease agreement is a lease with no expiry date. If a tenant is on a non-fixed lease there are limited circumstances in which a landlord can end the tenancy.

One ground is that the premises are to be sold. However, what exactly does the phrase 'the premises are to be sold' mean?

According to one recent decision of the Magistrates Court, the definition includes an intention to sell. If this decision is adopted by all Magistrates there is a range of activities that an owner can engage in to satisfy the requirement that a residential property is to be sold.

The clearest evidence demonstrating that the property is to be sold is that the owner has signed a contract for the sale of the premises with a purchaser.



Another possibility is that the property is being advertised for sale which demonstrates that the owner has an intention to sell the premises. This can be in the form of internet and/or newspaper advertisements, and may also include a 'for sale' sign being placed out the front.

Finally, a written and signed agreement with a real estate agent to the effect that the agent will undertake activities to sell the premises on the owner's behalf shows an intention to sell.

In a case recently heard by the Magistrate Court a tenant was served with a notice to vacate and disputed it, as the owner had neither signed a sale contract nor advertised the premises in any way. However, there had been an agreement made with an agent to sell the property for the owner, signed by both owner and agent. They agreed on selling the house vacant. The Magistrate Court subsequently found that the notice to vacate was valid and made an order for vacant possession.

The case shows that even without advertisements indicating the premises is for sale, a notice to vacate to a tenant on a non-fixed term lease may still be valid. We therefore recommend that tenants issued with a notice to vacate on the grounds that the premises are to be sold request proof of an intention to sell.

Check out our [Notice to Vacate factsheet](#) for additional information.

More Bang for your Bond

The Tenants' Union of New South Wales has launched an exciting new campaign calling on the government to give tenants' [More Bang for your Bond](#). The NSW government currently holds around \$1 billion worth of bond money on behalf of tenants, money which generated \$60 million in interest in the 2012-13 financial year. This is the largest amount of bond money held in Australia. Yet, tenants receive as little as 0.2% of that interest, when getting bond back at the end of their tenancies and only 8% of the money derived by interest from bond money is used to fund tenants' advice services. The biggest proportion (68%) is paid to NSW state government agencies, primarily the NSW Department of Finance and Service and the NSW Civil and Administrative Tribunal.

Illustrated by fun, pop art style cartoons the NSW Tenants' Union campaign offers a bond interest calculator for tenants and encourages them to take action by signing a petition, creating awareness on social media or lobbying local Members of Parliament. We like it!

In Tasmania, the total bond deposits held by the Rental Deposit Authority was almost \$35 million in 2013-14, a steady increase since statistical data was first collected from the Rental Deposit Authority in July 2009.

According to information contained in a [submission provided by Shelter Tasmania](#) to the state budget process in 2015/16 the interest rate on RDA deposits was 2.75% in 2010. This is significantly less than the 4.75% interest rates paid out by the big four banks in the same year. With a lack of data from other years, Shelter Tasmania estimates that interest made from bond money held by the RDA could yield around half a million dollar more per year. Money, that could well be spent in the best interests of tenants, by funding the enforcement of minimum standards, providing extra resources to tenancy organisations or enhancing the Private Rental Tenancy Assistance Scheme.

As well, Shelter Tasmania is recommending more transparency in the information published about bond holdings, as it could provide valuable data about the private rental market and could become an excellent resource for evidence-based policy and analysis. We fully support Shelter Tasmania's claims.

Tenants' Union Services

TELEPHONE ADVICE LINE

Monday to Friday*
9.30am to 4pm
1300 652 641
6223 2641

FACE-TO-FACE SERVICE**Hobart**

166 Macquarie St
Tuesday, Wednesday, Thursday*
9.30am to 12.30pm

**Launceston**

By appointment
Call 1300 652 641

**Devonport**

By appointment
Call 1300 652 641



**except public holidays.*

TRAINING AND INFO SESSIONS

22 April 2015 - Tasmanian Aboriginal Centre, Launceston
1 May 2015 - Centacare Settlement Grants Program, Hobart
7 May 2015 - Centacare Humanitarian Support Services, Hobart
14 May 2015 - Centacare Humanitarian Support Services, Hobart

More face to face training and info sessions are in the planning, but have not been confirmed yet. Please contact [Rebecca Taylor](#) for further information.

ONLINE

www.tutas.org.au

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