

Question 1

Jane started renting a property in North Hobart in January 2018, the first time she has lived out of home. She works casually at a clothes shop in town. Unfortunately business is slow at the moment, so she is not getting many shifts. As such, she has fallen behind in her rent.

On 3 July 2018 her landlord, Greg Ritchie, did a routine inspection of the property, and told Jane that she needed to mow the backyard of the property. Jane explained that she didn't own a lawn mower, and couldn't afford to hire a gardener. Greg told her that if she didn't do it soon, and didn't start paying her rent, he would have no choice but to give her a notice to vacate. He told her she should've thought about these things before she moved in.

This made Jane very stressed out. Fortunately it was her birthday on Saturday, 7 July 2018, and she was having a massive party to celebrate and unwind. The party was very rowdy, and about 100 of Jane's friends showed up. One of Jane's friends was a DJ, who played pumping techno from 10pm onwards. At around 1am, Jane's neighbour knocked on the door and asked her to turn the music down. The volume was lowered – for about five minutes. At 2am the police showed up and ended the party. In response, a bunch of Jane's friends through bottles onto the road and over the adjoining fences. When she woke up the following afternoon she had a text message from Greg: "Received complaints from neighbours – not happy!"

On 16 July at about 2pm Jane answered a knock on the door. It was Greg. He handed her a notice to vacate and said "I'm sorry but you've been nothing but trouble. Please clean the house and the carpets before you leave. I'll be taking the rent arrears from your bond."

Jane doesn't know what to do. She has never received a notice to vacate before.

1. Is the notice to vacate that Greg served on Jane valid? Why/why not? In your answer reference section 44 of the *Residential Tenancy Act 1997*.
2. Assume that the notice to vacate **is** valid.
 - a. What can Jane do if she does not want to move out, if anything? Would your answer change if Jane had already received two other valid notices to vacate for rent arrears before this one? Why?
 - b. It is the 11th of August and Jane has not moved out. What does Greg have to do now to enforce the notice to vacate?

Question 2

Todd Dot rented a unit at 1/111 Montagu St, New Town, from 20 September 2016 until 20 September 2017, for \$200.00 per week. He paid a bond of \$800.00. At the start of the lease Bags Real Estate managed the property, but MK Jooker took over management in June 2017.

In August 2017, Todd received a notice to vacate from MK Jooker due to the lease ending. The notice was valid, and Todd was happy to move out. The notice took effect on 20 September, but Todd found another property early and handed back the keys on 6 September, two weeks early.

On 22 September 2017 Todd received notification from MK Hooker that they were intending to claim all of Todd's bond. The reasons given were:

- Rent arrears – final two weeks: \$400;
- Carpet cleaning – \$100;
- Repair and repaint window frame damaged by water and mould - \$200;
- Replacement of cracked shower screen - \$50;
- Removal of couch left outside property - \$50.

Todd thinks he should be entitled to keep his entire bond. His reasons are:

- He could not afford to pay two lots of rent at once, and MK Hooker wanted him to leave anyway – they gave him a notice to vacate;
- He paid for carpet cleaning;
- He told Bags Real Estate that water leaked in through the window, and they never fixed it;
- The shower screen was already cracked when he moved in; and
- He couldn't fit the couch in his car, and none of his friends wanted it.

You are the Residential Tenancy Commissioner and must determine this dispute.

MK Hooker have provided you with:

- A rental ledger, showing Todd did not pay for the period 6 September to 20 September;
- Photos of the carpet at the beginning of the lease, and at the end, showing that the carpet was new at the beginning, and has multiple large stains at the end;
- Receipt of window repairer and painter;
- Receipt from Dunnings for new shower screen;
- Receipt from tip for disposal of couch.

Todd has provided:

- A copy of his new lease, showing that it started on 6 September 2018;
- A receipt from Jimmy's Carpet Service;
- An email sent to Bags Real Estate in March 2017 stating that a window was leaking and causing mould and damage to the frame, and an acknowledgement from Bags that they received it;
- The condition report from the beginning of the lease, showing a hand written note in the "Bathroom" section stating "Shower screen: cracked".
- A photo of the couch, which is in a large "L" shape.

Determine each ground in this dispute. Give detailed reasons.

Question 3

What functions does the Residential Tenancy Commissioner perform under the *Residential Tenancy Act 1997*? Compare this with the role of the Magistrates Court in tenancy matters. Why do you think that parliament reserved certain powers for the Residential Tenancy Commissioner, and others for the Magistrates Court?