

3 November 2022

TENANTS' UNION OF TASMANIA
The Specialist Legal Service for Tenants



To Consumer Affairs and Fair Trading
PO Box 56
Rosny Park TAS 7018
attn: Residential Tenancy Commissioner

via email: rtc@justice.tas.gov.au

To Peter Graham,
Re: Tasmanian Real Estate Agencies requesting payment for background check

Today the Australian Broadcasting Corporation has reported that 160 real estate agencies across Australia - including in Tasmania - are using an online platform which appears to ask that prospective tenants pay between \$20.00 - \$30.00 for a background check which "will greatly boost your star rating and help you to stand out from the rest".¹

We strongly believe that requesting payment for a background check is unlawful pursuant to section 17(2) of the *Residential Tenancy Act 1997* (Tas) which expressly prohibits both the requiring or receiving of money from prospective tenants in the making of an application to rent residential premises:

17. Money other than rent

(1) A person must not require or receive from a tenant or prospective tenant any money or other consideration for entering into, renewing, extending or continuing a residential tenancy agreement other than –

- (a) rent in advance for the relevant payment period; and*
- (b) a security deposit; and*
- (c) a holding fee.*

Penalty: Fine not exceeding 50 penalty units.

...

(2) Except as provided otherwise in the regulations made under this Act, a person must not require or receive from another person any money or other consideration for or in relation to any of the following:

- (a) making an application to rent residential premises;*
- (b) providing keys for the inspection of residential premises;*
- (c) giving permission to examine or inspect residential premises;*
- (d) supplying details of residential premises available for rental;*
- (e) placing the name of that other person on any waiting list for vacant residential premises;*
- (f) any other prescribed activity.*

Penalty: Fine not exceeding 50 penalty units.

¹ Bension Siebert, 'Renters pressured to pay for own background checks'. As found at https://www.abc.net.au/radio/programs/am/renters-pressured-to-pay-for-own-background-checks/101609824?fbclid=IwAR39IQCBcAPvEBUDMr0ZUADr7_KBNJyqTIYkxgPVGHPEAb4C1kYD7T7CXk (Accessed 3 November 2022).

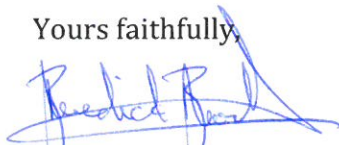
Could you confirm that requesting payment for a background check is contrary to section 17(2) of the *Residential Tenancy Act 1997* (Tas).

If you find that requesting payment for a background check is contrary to the Act we would ask that you correspond with all Tasmanian real estate agencies informing them of the breach and requesting that they use an alternative application process.

We would also ask that you require those real estate agencies that have been using the online platform to reimburse all prospective residential tenants who have paid for a background check.

Finally, could you confirm whether you intend to impose a sanction on those real estate agencies who have made use of the online platform.

Yours faithfully,



Benedict Bartl
Principal Solicitor
Tenants' Union of Tasmania

cc: Elise Archer
Minister for Justice