

Published by the Eastern Area Tenants Service,
a publicly funded free service giving all tenants advice
about their legal rights when renting their homes

Contact EATS on phone 9386 9147

email: eats_nsw@clc.net.au

web: www.tenantsrights.org.au

THE BOOT FACTOR

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HNSW: Its time to fix repairs issues

In late 2011 the Tenants' Union of NSW, with EATS and the rest of the Tenancy Advice and Advocacy Program (TAAP), identified HNSW repairs practices as a priority for tenancy services across NSW.

Tenants' experiences have highlighted many deficiencies in the way HNSW deals with repairs, including non-compliance with Consumer, Trader and Tenancy Tribunal orders (CTTT). Something needs to be done to urgently redress the problem.

The HNSW Repairs Campaign aims:

- to pressure HNSW to carry out quality repairs in a timely fashion through:
 - increased compliance (with CTTT orders)

— adequate funding for repairs

— quality assurance

- to increase tenant-initiated CTTT applications for repairs against HNSW
- to increase HNSW tenant awareness of the available processes for remedy

TAAP services have developed kits and resources to help tenants take action to get their repairs done. Services are contacting tenant groups about the campaign. If you want to become involved, or have a repairs issue that has not been fixed, contact your local HNSW tenant group or EATS.

More at www.tenantsrights.org.au

BONDS: What does a landlord or agent have to do?

The Residential Tenancies Act spells out a number of things that landlords and agents have to do when they are dealing with tenant's bonds.

Tenants should never forget that a bond is their money, unless they agree or the Consumer, Trader and Tenancy Tribunal orders otherwise.

The Residential Tenancies Act 2010 and regulations say landlords or agents:

- Must fill in all sections of the condition report, including the "health" and "water efficiency" sections when or before a tenancy starts.
- MUST conduct an outgoing inspection with the tenant at the end of the tenancy. They can only do the outgoing report by themselves (which is a common practice) if they give the tenant a reasonable opportunity to be present for the outgoing inspection.

Real estate agents commonly won't organise a time with tenants for outgoing inspections. In these cases, by the time the tenant hears of any alleged problems with the premises, they have often given back the keys, and cannot check the landlord's assertions or fix the problem themselves.

Tenants who feel they are being messed about by agents or landlords should tell the landlord or agent that they are obliged to do an outgoing inspection with tenants. They can put forward in writing a number of reasonable times for outgoing inspections with the agent and keep notes about the agents' responses to the tenant's request for a joint inspection. Keep records and contact EATS for further advice.

More at www.tenantsrights.org.au

WAITING LIST changes

People seeking social housing in NSW will be struck off the waiting list if they don't keep their contact details up to date, under changes introduced by the NSW State Government from May 1 2012.

Tenants who are struck off can, in some circumstances, appeal. Otherwise, they can apply again but will be put at the back of the queue.

If you did not update your details by April 30 2012 it is important that you contact your local social housing provider as soon as possible. If you are advised that you have been struck off, contact EATS for advice and help.

It's time to stop treating people as second class citizens

BOARDERS AND LODGERS: Is help finally on its way?

The State Government announced last month that it is preparing new laws to protect the rights of renters who live in boarding houses.

Boarding house residents are among the tens of thousands of renters who currently have few legal rights. They are not covered by the Residential Tenancies Act 2010. They can't legally make landlords do repairs. There is not much they can do to stop landlords throwing them out without notice, or even to get their bonds back when they leave.

People living in private student accommodation and many who live in share housing without written tenancy agreements face similar problems.

More at www.tenantsrights.org.au



BOARDERS AND LODGERS: All renters need basic legal protection

If the government is serious about ending the legal discrimination against people in 'low cost' accommodation – residents of boarding houses, students and those in share housing – it must make sure its laws do the following:

Have broad, general coverage: The law must cover everybody who is not covered by the Residential Tenancies Act. Coverage must be unconditional – there cannot be loopholes that allow dodgy landlords to circumvent of the law.

Set fundamental minimum standards: the law must ensure that every renter who is not protected by the current Act has basic rights. These must include:

1. Minimum periods of notice to leave;
2. The right to housing that is clean, functional and not exposing residents to danger;

3. The right to have disputes resolved at the Consumer Trader and Tenancy Tribunal;
4. The right for residents to get their bonds back.

End the worst rip-offs of residents by landlords, including:

- a. Exploitation of people with intellectual, physical or mental disabilities, or those with inadequate understanding of the English language or Australian law;
- b. Practices like withholding residents' passports or other vital documents;
- c. Dodgy agreements like those that demand residents find a replacement tenant before they are allowed to leave or get their bond back;
- d. An end to "bond harvesting", where landlords routinely top up their profits by keeping residents' bonds.

BOARDERS AND LODGERS: Who is exposed to dodgy landlords?



Renters are protected if they are classified, legally, as a "tenant". If you are found to not be a tenant, you don't have the rights enshrined in the Residential Tenancies Act. Accessing your few legal rights can be costly, complicated and uncertain.

Your living arrangements...	If you answer	You ...
Do you have meals, linen and cleaning provided as part of your agreement?	YES	are not a tenant
	NO	may be a tenant
Do you have a lock on your room and/or does the landlord need your permission to enter your room	YES	may be a tenant
	NO	may not be a tenant
Do you have your own cooking or meal preparation facilities	YES	may be a tenant
	NO	may not be a tenant
Are there house rules, such as any restricting your right to have visitors	YES	may not be a tenant
	NO	may be a tenant
Do you have a written agreement	YES	may be a tenant
If you live in share housing and are not living with the owner, do you have a written agreement with the head tenant	YES	may be a tenant
	NO	are NOT a tenant

Have your say: jump onto www.tenantsrights.org.au or find us on facebook at 'Renting – The Final Frontier'

WAITING LISTS: Ten year plus wait for a home in the Eastern Suburbs

Housing NSW figures show that people seeking social housing in the eastern suburbs had to wait over two years for a studio apartment, 5 to 10 years for a one or two bedroom property and over 10 years for properties with 3 or 4 bedrooms. These wait times apply to both priority and general applicants.

In separate news, online newsletter *Crikey* reported that state governments in NSW and Victoria have pushed public housing building to all time lows, across the whole state.

Crikey said "Investment in public housing has collapsed in NSW and Victoria, with both states taking advantage of stimulus-era funding to pull back on their own investment in housing... the national level of investment in social housing reached an all-time low in the second half of 2011 and remains there..."

"In NSW this year, just 31 public housing units have been approved for commencement. There were just 511 in all of 2011, compared to 927 in 2007, before the financial crisis, and 4736 in 2010, when the (Rudd government's) stimulus package work was in full swing."

On 30 October 2011, the 6937 social housing properties in the Eastern Suburbs were made up of:

- 480 studio apartments;
- 2017 one bedroom properties;
- 2780 two bedroom properties;
- 1485 three bedroom properties;
- 174 four bedroom properties

According to HNSW there were 1567 people on the Pathways Housing wait list and of these, 179 were approved for priority housing. 1388 people were on the general waiting list.

More at

<http://www.tenantsrights.org.au>

MOULD: Everything you didn't want to know



Mould can be extremely harmful to your health, and in damp or humid conditions can be a real challenge to tenants. Find out more about mould and what you can do at www.tenantsrights.org.au

STRATA and tenants

The 2006 census shows that most tenants – nearly 75 per cent – in our area live in strata units. When problems arise they can be caught between landlord and strata.

Tenants have a legal relationship with the landlord, not strata, which is made up only of owners. Landlords refuse to do repairs which they claim are Strata's responsibility. Strata refuses to deal with the tenant, and the whole merry go round starts again. (There is no question that the landlord is responsible to the tenant for repairs to a property, regardless of who actually is responsible for paying for the repairs.)

Strata, or bodies corporate, often claim a relationship with a tenant when they want to take them to task for breaking some obscure by-law. Legally, strata can fine a tenant for breaking a by-law, but they cannot terminate their agreement. It's a huge mess, and one that tenants have no control over.

Currently, tenants are limited in what they can do in these situations. As Dr Chris Martin of the Tenants Union told a recent forum, it is inherently undemocratic that tenants must comply with laws that they have no say in.

More at
www.tenantsrights.org.au

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BONDS: more rip-offs

EATS has discovered at least two real estate agents in our catchment area making dodgy and possibly illegal bond claims. Both agencies belong to well known franchises and should know better.

One of these agents sends out a standard letter about ending the tenancy, including details of the amount of rent due, how to return keys and that a final inspection will be arranged at the end of the tenancy. They also invite the tenant to fill in, sign and return an enclosed Bond Claim Form.

Another agent from an unrelated chain advises tenants not to bother about bond claim forms, that they, the agent, will just file the claim online and 'save the tenant the trouble'.

A bond is a tenant's money, held by the Rental Bond Board. A Bond Claim Form should be signed by both parties when they agree about the return of the bond. Alternatively, either the tenant or landlord can lodge their own claim, but never with the 'amount owing' box blank.

The layout of the form can cause confusion.

The form says that if the "amount owing" box is left blank, the full bond will be refunded to the tenant. Unfortunately, a blank box can be filled in by an unscrupulous agent or landlord.

UTILITIES: landlord has to pay if not separately metered

If a tenants' premises do not have separate meters for electricity and gas, the landlord has to pay all the gas and electricity bills. This does not apply to Housing NSW or social housing providers.

This obligation is set out in Section 40 of the Residential Tenancies Act 2010. It applies even if there are meters for electricity and gas, but the metered utilities are not used exclusively by the tenant. For example, some properties may have gas or electricity that is used by the landlord or neighbours.



In these cases, payment of the utility bills is the landlord's responsibility.

Tenants in these circumstances should contact EATS for advice about getting whatever money they may have paid back from the landlord. If you are considering such a claim, you will need copies of all your utilities bills and a report from a licenced electrician, plumber or a building maintenance company showing that the premises are not separately or correctly metered.

RENTS: Impossible for low income earners in Sydney and Melbourne

The private rental market has failed low income Australians according to the Executive Director of Anglicare Australia, Ms Kasey Chambers.

In one weekend in April, Anglicare found that only 40 properties out of 20,000 advertised in Sydney and Melbourne were suitable and affordable for low income earners.

In regional areas, there is hardly any housing for families on low incomes. Only two per cent of advertised properties in the NSW Southern Tablelands was suitable for low income earners. Six per cent of properties advertised in Gladstone were affordable and suitable for a family of four.

Anglicare agencies researched rents for advertised rental properties around Australia. They checked how affordable these properties were for households depending

on Government benefits or the minimum wage. 'Affordability' is classed as spending up to 30% of a low household income on rent.

"What the Snapshot shows is that people on the minimum wage need two incomes to rent a house. In many places even that is not enough," Ms Chambers said.

"And for those trapped on NewStart, supporting parent or youth allowance there is absolutely nothing suitable available at all."

Ms Chambers said the Anglicare Snapshot gives a glimpse into housing stress. Safe and secure housing is out of the reach of hundreds or thousands, or even millions of Australians, she said. The report "raises the question of why it [affordable housing] isn't a true national priority".

You can read the full report at www.anglicare.org.au.

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**For FREE information and advice for tenants call
Eastern Area Tenants Service on
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**Monday 9 – 3 Tuesday 11 – 5
Thursday 9 – 1 Friday 9 – 1**