

## **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.

It is vitally important for tenants to fill in, keep copies of and send the landlord or agent completed copies of condition reports.

Condition reports are seen as good evidence if they are signed by both parties.

A signed condition report is less compelling evidence (for the landlord) if the tenant includes a written "dissenting" comment on the condition report, or if the landlord subsequently finds something that could not reasonably have been picked up during the inspection.

If a landlord or agent claims part of a tenant's bond, they have to send the tenant a copy of the outgoing condition report and copies of estimates or quotes upon which the landlord bases their bond claim, within seven days of making the claim.

In theory, a landlord can be fined \$2,200 for not supplying this information within the proper timeframe. Unfortunately, there are not many prosecutions launched for breaches of the Residential Tenancies Act.

If a landlord breaks these obligations they may still be able to get a tenant's bond, depending on the evidence they have. However, it is important that agents and landlords are pushed to do the right thing. One way of doing this is by complaining to NSW Fair Trading in cases where agents or landlords do not do the right thing under the law.