



What is the role of the Residential Tenancy Commissioner?

The Commissioner considers disputes between a property owner/agent and a tenant about who gets the rental bond after a tenancy has ended.

The Commissioner considers the evidence put forward by all of the parties and decides whether or not to agree to the owner's claim.

The Commissioner is only involved when the parties cannot agree and there is a dispute.

When is a bond in dispute?

A bond is in dispute when the tenant does not agree with the amount of bond that the property owner wants to keep.

A deposit contributor may also disagree with the amount of the bond that an owner wants to keep.

Where there is no agreement about a claim, the Rental Deposit Authority (RDA) will refer the matter to the Commissioner as a dispute.

Where the owner cannot find the tenant and has made a claim to the RDA, the bond is referred to the Commissioner.

How do I know if the bond is in dispute?

When a claim is made, the RDA will write to tell all of the other parties. If the parties cannot agree you will be advised that the matter is in dispute.

Do I need a special form to lodge a dispute?

Where you are notified by that RDA that the matter has been referred to the Commissioner, you do not need to fill in any special form.

However, if the tenancy started before 1 July 2009 and the bond is being held by the owner or agent, the tenant needs to fill out a dispute form and send it to the Commissioner.

The tenant can lodge a dispute directly with the Commissioner. In this case a dispute form is required. A dispute form is available on the Internet at: www.consumer.tas.gov.au/forms

How long will it take to make a decision?

The Commissioner will make a decision as soon as all of the relevant evidence has been provided. This will depend upon the complexity of the issues and whether quotes or receipts are required. Generally, delays will only occur if the Commissioner is waiting for information from the parties.

What information do I need to support a claim?

You should provide:

- a copy of the residential tenancy agreement;
- a copy of the condition report for both the beginning and end of the tenancy;
- if claiming rent arrears, any evidence such as bank statements, that supports the argument that rent was not paid; and

- copies of receipts for work done to rectify damage and photographic evidence where possible.

Do I need receipts or quotes?

The Commissioner's view is that the owner should demonstrate that they have suffered a financial loss.

If the loss involves the performance of work such as cleaning, gardening, or minor repairs such as painting, or the repair of locks, then the work should be completed first and a receipt provided.

Where the work is substantial and may take some time, a quote will be sufficient. You should seek advice from the Commissioner's office as to what is required in each circumstance.

What can I claim if the tenants have left before the expiry of the residential tenancy agreement?

If the tenant leaves the property before the expiry of the agreement, the owner can claim for:

- loss of rent until a new tenant can be found or the agreement can be lawfully terminated (whichever occurs first). However, the owner is obliged to find a new tenant as soon as possible; and
- any other loss arising from the early termination. This loss includes advertising and other costs associated with finding and signing up a new tenant.

These costs should be claimed on a pro-rata basis. The pro-rata costs are calculated according to the following formula. $L = R/T$ where L= loss, R=the total number of weeks remaining and T=the total number of weeks in the agreement.

Can I claim the cost of water rates?

You can only claim water rates where the property has a water meter. You can only claim for the consumption charge and not any fixed charge. Make sure the meter is read before and after the tenancy.

Who do I contact if I need further information?

The Office of the Residential Tenancy Commissioner can be contacted on 1300 65 44 99 or by email at: rtc@justice.tas.gov.au

Information can be obtained from the Internet at: www.consumer.tas.gov.au/rtc/

What do I do if I disagree with the Commissioner's decision?

When the Commissioner has made a decision, you will be notified of the decision in writing.

You have 7 days after you receive the notice to appeal to the Magistrates Court. The number of days that you have to appeal will be adjusted to take into account time for postage, weekends and public holidays. For example, if the day on which the appeal period expires is a weekend or a holiday, the last appeal day will be extended to the next business day.

The date of postage and the date of the expiry will be included in the notification sent to you by the Commissioner.

How do I appeal?

If you want to appeal the Commissioner's decision you should contact the Magistrates Court.

Further Information can be obtained from the Internet site at: www.magistratescourt.tas.gov.au/

The Magistrates Court can also be contacted by phone on 03 6233 3623.

Rental Bond Disputes

A guide for property owners about the Residential Tenancy Commissioner

CONTACT DETAILS

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