

# Fact sheet



## Residential Tenancies Act 1994

### Abandoned Premises

The *Residential Tenancies Act 1994* (the Act) is the main law that governs renting a place to live in Queensland. This fact sheet contains information and an accurate summary of how the Act applies but should not be relied upon as legal advice for specific cases. The Act is the primary source of the law and takes precedence over this fact sheet. To find out more you can refer to the Act or contact the Residential Tenancies Authority (RTA).

#### Terms you will find in this fact sheet

- *Premises* are the houses, units or caravans being rented.
- *Tenants* are the people who have been given the right to live in the premises.
- *Lessors* are the people who give the tenants the right to live in the premises (e.g. the owners), or their representatives (e.g. real estate agents).
- *Small Claims Tribunal* is a court that makes final, legally binding decisions on tenancy disputes.
- *Abandoned* is when the tenant leaves the premises permanently without finalising arrangements.

A lessor who believes, *on reasonable grounds*, that the premises are abandoned must formally end (terminate) the agreement before they can take possession of the premises and deal with any property left behind by the tenant.

#### Can lessors go into premises they believe are abandoned?

Lessors may serve an *Entry Notice* (Form 9) giving 24 hours' notice to enter the premises for an inspection if they believe the premises are abandoned.

#### What are reasonable grounds?

Many factors could constitute reasonable grounds including some or all of the following:

- rent has not been paid;
- a build-up of mail or newspapers still in the mailbox;
- observations of neighbours or others that suggest the tenants have abandoned the premises;
- the absence of household goods;
- gas, telephone and electricity services have been disconnected; or
- the tenant does not respond to attempts to contact him/her.

#### How is the tenancy agreement ended?

There are two ways to end a tenancy agreement under abandonment.

Firstly, the lessor can apply to the Small Claims Tribunal for an order saying the premises are abandoned. This way is recommended if there is doubt about whether the premises are abandoned or not. A tenant who disagrees with the order declaring the premises abandoned may apply to the Small Claims Tribunal within 28 days of the decision to have it reviewed.

Secondly, the lessor can give the tenant an *Abandonment Termination Notice* (Form 15). This notice should be served to the tenant in the usual way such as by mail or attaching the notice to a door of the premises. If the tenant does not apply to the Small Claims Tribunal within seven days to have the notice either set aside or for compensation, then the tenancy agreement will be terminated seven days after the date the notice was issued.

If the former tenant is dissatisfied with the abandonment termination order issued by the Tribunal, they can apply to the Tribunal within 28 days after the date of the order for a review of the decision. If the Tribunal is then satisfied the



premises were not abandoned, an order for compensation for lessor expense incurred by the former tenant may be made.

### **Can lessors get compensation?**

The lessor can apply to the Small Claims Tribunal for compensation if they lose money such as for rent money owing or have costs for damages caused either during the tenancy or after abandonment.

### **Can the rental bond be returned?**

The rental bond can be returned, but if an *Abandonment Termination Notice* (Form 15) has been served, the RTA cannot process a *Refund of Rental Bond* (Form 4) until the *Abandonment Termination Notice* has expired.

### **How do I apply to the Small Claims Tribunal?**

The RTA has an information booklet called *Handling Tenancy Disputes in the Small Claims Tribunal*. This outlines the steps you need to take when applying to the Small Claims Tribunal. Call the RTA for a copy or download the booklet from the RTA website.

### **How do I get the forms I need?**

The Act says that most dealings between tenants and lessors need to be in writing. Forms are an easy way to collect and keep this information and in some cases such as the Form 15, the Act requires you to use the approved form. You can get the RTA's approved forms by:

- visiting the RTA's website at **[www.rta.qld.gov.au](http://www.rta.qld.gov.au)** and following the links to e-forms;
- calling the RTA's forms distribution service on **1300 136 939**;
- faxing a Request for Forms to (07) 3216 2258; or
- posting a Request for Forms to RTA Forms Distributor, Post Logistics, 52-54 Qantas Drive, Eagle Farm QLD 4009.

The most commonly used forms are also available at most Australia Post Offices around Queensland.

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