

FACT SHEET

Domestic Violence

Queenslanders experiencing domestic violence, injury or damage to the premises while living in rental accommodation can take action to remove the violent person from the premises regardless of their status on the tenancy agreement. The *Residential Tenancies Act 1994* has provisions to assist co-tenants, spouses of tenants, and persons not named on the tenancy agreement in violent situations.

What is domestic violence?

Section 11 of the *Domestic Violence (Family Protection) Act 1989* defines domestic violence as any of the following acts committed by a person against his or her spouse:

- a) wilful injury;
- b) wilful damage to the spouse's property;
- c) intimidation or harassment of the spouse;
- d) indecent behaviour to the spouse without consent;
- e) a threat to commit an action mentioned in paragraphs (a) to (d).

A "spouse" is defined as either of:

- a) a man and woman who are or have been married to each other; or
- b) the biological parents of a child, whether or not they have been married or are residing or have resided together; or
- c) two persons, of the same or the opposite sex, who are residing or have resided together as a couple.

What is injury or damage to premises?

Section 150A of the *Residential Tenancies Act 1994* refers to damage to the rental premises as serious damage caused by the tenant which includes serious damage to fittings, fixtures and furnishings let with the premises. Section 150A also refers to injuries caused by the tenant to someone else occupying or allowed on the premises.

Action by spouse of tenant

A person experiencing domestic violence may apply to the Small Claims Tribunal for an order either

recognising them as the tenant or terminating their spouse's tenancy because their spouse has committed an act of domestic violence.

In making the order, the Tribunal would have to be satisfied that the applicant had established grounds, such as being in possession of, or having applied for, a protection order that prohibits their spouse from entering or remaining on the premises. An application can be made to the Tribunal to have an interim restraining order put in place.

Alternatively, a person experiencing domestic violence may apply to the Magistrates Court for a protection order under the *Domestic Violence (Family Protection) Act 1989*. At the same time, the Magistrate can also make an order about the tenancy if the parties are entitled to apply for such an order under the *Residential Tenancies Act 1994*.

Action by occupants or co-tenant

The *Residential Tenancies Act 1994* allows an occupant sharing the home, who believes the tenant named on the lease is likely to intentionally or recklessly cause serious damage or injury, to apply to the Tribunal for an order either recognising them as the tenant or terminating the tenant's agreement.

Lessor must be notified

The lessor must be told about the application before either the Small Claims Tribunal or the Magistrates Court can make a decision about the tenancy.

Further information

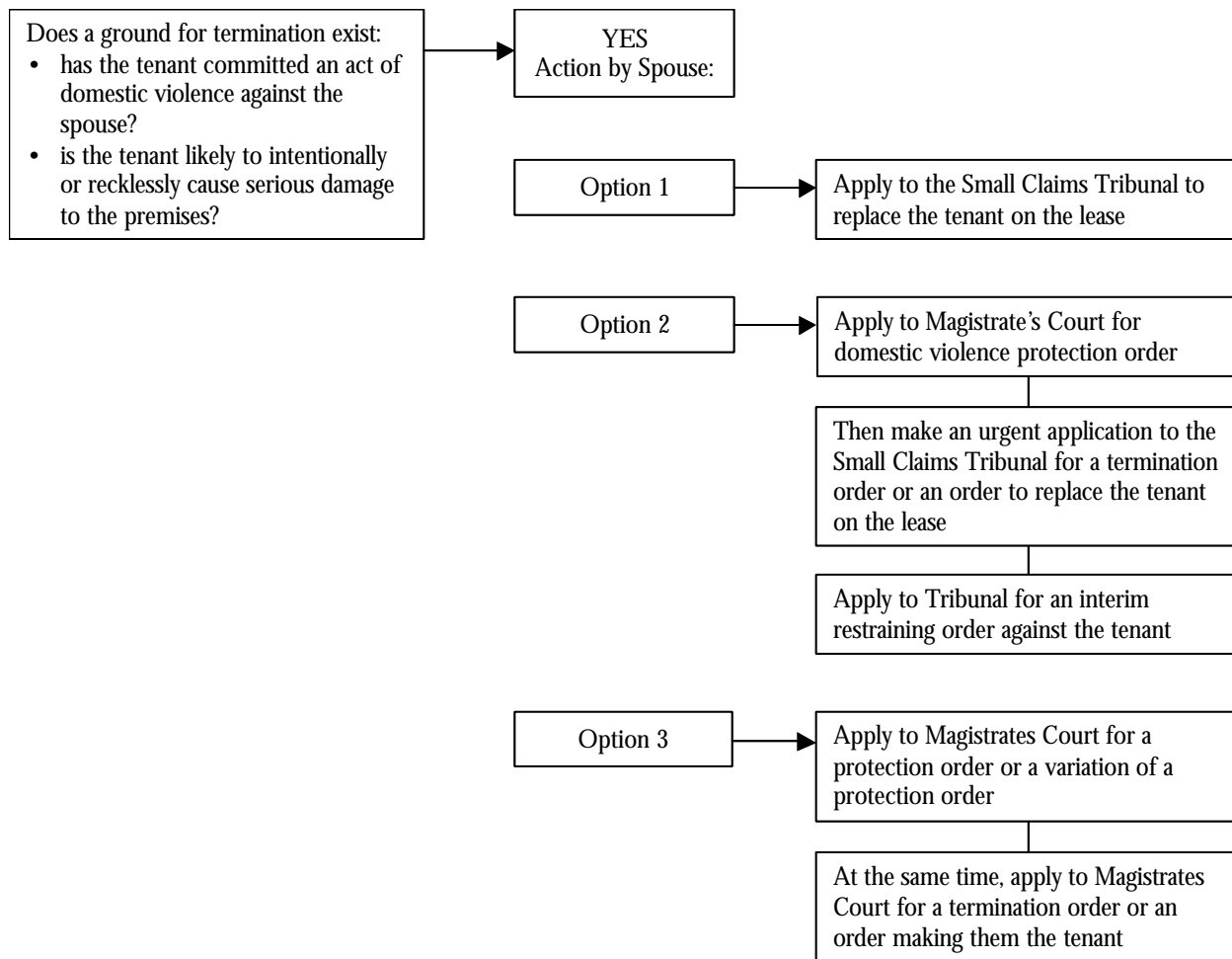
The *Residential Tenancies Act 1994* is the primary source material on the law and takes precedence over this Fact Sheet should there be any inconsistency between the Act and this Fact Sheet.

For more information about the *Residential Tenancies Act 1994*, contact the Residential Tenancies Authority. Contact details are at the bottom of this Fact Sheet.

July 2000

Action by a spouse* of the tenant

*See overleaf for the definition of a spouse



Action by an occupant or co-tenant

If the tenant dies or otherwise ceases to occupy the premises, the occupant can apply to the Tribunal to replace the tenant on the lease.

