

FACT SHEET

Abandoned Premises

The *Residential Tenancies Act 1994* contains provisions dealing with premises that are abandoned by tenants.

Terminating the tenancy

A lessor/agent who believes, on reasonable grounds, that the premises are abandoned, must terminate the tenancy agreement before they can regain possession of the premises and deal with any property left behind by the tenant.

Reasonable grounds for believing premises to be abandoned may include:

- non-payment of rent;
- mail or newspapers uncollected at the premises;
- reports of abandonment by neighbours or others;
- removal by the tenant of their household goods;
- services such as gas, electricity and telephone being disconnected;
- failure of the tenant to respond to an *Entry Notice* (Form 9).

There are two options for terminating a tenancy agreement on the grounds of abandonment. Firstly, the lessor/agent can make an application to the Small Claims Tribunal for an order declaring the premises abandoned.

This option can avoid disputes arising later if there is doubt about whether the premises were abandoned.

A tenant who disagrees with a decision of the Tribunal declaring the premises abandoned may apply within 28 days of the Tribunal's decision to have the matter reviewed.

The second option for terminating a tenancy agreement for abandonment is for the lessor/agent to give an *Abandonment Termination Notice* (Form 15). The notice should be served to the premises in the normal way. The tenancy agreement will be terminated after 7 days from the date the notice was given if the tenant does not apply to the Small Claims Tribunal to have the *Abandonment Termination Notice* set aside.

In the case that the 7 day period has expired and the tenancy has been terminated, the tenant may apply to the Tribunal for a compensation order. The tenant must apply within 28 days of the *Abandonment Termination Notice* being served and can seek compensation if they can show that they had not abandoned the premises.

Entry to premises believed to be abandoned

The lessor/agent may issue an *Entry Notice* (Form 9) allowing 24 hours notice to enter the premises for an inspection in the belief that the premises may be abandoned. The lessor/agent may also enter the premises without notice prior to the tenancy agreement being terminated if, on reasonable grounds, it is necessary to secure the premises from damage.

Compensation

Where a lessor/agent incurs a loss of rent or experiences costs related to damage to the premises, they may apply to the Small Claims Tribunal for compensation. This may have resulted from the tenant ceasing to pay rent at the time of abandoning the premises or rent arrears incurred during the tenant's occupation. Similarly, damage may have resulted during the tenant's occupation or could have occurred after the tenant's departure.

Refund of rental bond

If an *Abandonment Termination Notice* (Form 15) has been served at the premises the RTA cannot accept or process a *Refund of Rental Bond* (Form 4) until that *Abandonment Termination Notice* has expired.

Goods and documents left behind

See the *Goods and Documents Left Behind* Fact Sheet for more information.

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.

Accessing RTA forms

The RTA's approved forms can be obtained by:

- visiting the RTA's website at **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 PO Box 517, Virginia Qld 4034.

A selection of the most commonly used forms is also available at Australia Post offices around Queensland.

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