

FACT SHEET

Five most frequently asked questions

1. Who is responsible for routine repairs and maintenance?

Routine repairs

The tenant must give notice to the lessor/agent about the need for routine repairs, preferably in writing, as soon as practicable after becoming aware of it. The lessor/agent is then responsible for arranging for the repairs to be carried out, within a reasonable time.

If the tenant has notified the lessor/agent of the need for repairs and the lessor/agent has failed to make the repairs after a reasonable time has elapsed, the tenant may issue the lessor/agent with a *Notice to Remedy Breach* (Form 11). The tenant must then allow a minimum of seven days for the lessor/agent to carry out the repairs.

The lessor/agent must give the tenant 24 hours notice, using an *Entry Notice* (Form 9), before they or their tradesperson enters the premises to carry out repairs. This notice may be waived if the tenant agrees and a mutually convenient time for entry has been negotiated with the tenant.

The lessor/agent is responsible for the cost of the repairs, unless the tenant or their visitor/guest has caused the damage maliciously, purposely or negligently.

Maintenance

The *Residential Tenancies Act 1994* (the Act) specifies that the lessor/agent is responsible for:

- maintaining the premises in such a way that the premises remain fit for the tenant to live in; and
- maintaining the premises and the inclusions in good repair, that is, in a good working condition, having regard to their condition at the start of the tenancy.

The tenant should inform the lessor/agent of any maintenance that is needed, preferably in writing. A *Notice to Remedy Breach* (Form 11) may be used for this purpose.

2. When and how often can the lessor/agent enter a rental premises?

The tenant has a right to privacy and quiet enjoyment. The Act permits the lessor/agent to enter a rental premises for several reasons. The lessor/agent must notify the tenant using an *Entry Notice* (Form 9).

The amount of notice needed depends on the reason for entering the premises. The minimum notice periods are:

- to inspect the premises - 7 days (limit of one inspection in a three-month period)
- to do routine repairs or carry out maintenance - 24 hours
- to repair or carry out maintenance where the premises is in a remote area and there is a shortage of qualified tradespersons in the area - no notice
- in an emergency, or to protect the premises from damage - no notice
- if the lessor/agent believe that the premises are abandoned - 24 hours
- to show the premises to a prospective tenant or purchaser or for valuation purposes - 24 hours (a *Notice of Intention to Sell* must also be given if place is for sale)
- by Order of the Small Claims Tribunal - as stated in the Order

If possible, entry should be at a time that is reasonable for both parties. Under the Act, a tenant does not have an automatic right to be present when the lessor/agent enters. However, the parties may negotiate a time that is suitable to both.

The tenant can not refuse entry if the entry is for a lawful purpose, the correct notice has been given, and the entry is at a reasonable time.

3. How is the bond money refunded?

At the end of the tenancy, either party can complete a *Refund of Rental Bond* (Form 4).

If the tenant and lessor/agent agree on how the bond is to be refunded, they both sign the refund form and either post it to the RTA or fax it, free of charge, at an Australia Post office.

If the parties do not agree on how the bond should be refunded, either party can post a Form 4 to the RTA, which will process the first form it receives.

A Notice of Claim will then be sent to the other party at the last address known to the RTA. It's important to advise the RTA of any change of address. The other party then has 14 days from the date of the notice to advise the RTA of what option will be pursued. The options include:

- the other party applying to the RTA for dispute resolution by submitting a *Dispute Resolution Request* (Form 16);
- negotiating with the other party directly and resubmitting a new *Refund of Rental Bond* (Form 4) agreed to and signed by both parties; or
- doing nothing and the rental bond will be paid after the date stated on the Notice of Claim.

Any dispute that cannot be resolved through dispute resolution can be dealt with by the Small Claims Tribunal. The person responding to the claim on the bond is responsible for applying to the Tribunal for a hearing.

4. Can a fixed term agreement be broken early?

A tenancy agreement is a binding legal contract and the tenant must ask the lessor/agent for permission to be released from the agreement early. It is advisable to get the lessor/agent's approval in writing if they agree to terminate the contract early.

The lessor/agent may claim compensation for the reasonable costs incurred because the tenant leaves early. This may include loss of rent if they cannot find a replacement tenant. The lessor/agent has an obligation to reduce or minimise losses that result from the tenant breaking the agreement.

In some circumstances, tenants can break a tenancy agreement if they experience excessive hardship. This can include both financial and personal hardship. The tenant will need to make an urgent application to the Small Claims Tribunal for an order terminating the agreement because of excessive hardship. Any compensation owing to the lessor/agent may be assessed by the Tribunal.

5. How can tenancy disputes be handled?

Disagreements may arise between tenants and lessors/agents about matters to do with the tenancy.

Tenants and lessors/agents can usually resolve such disputes by talking to each other and by finding out about their rights and responsibilities under the Act.

Information about the Act can be obtained by visiting the RTA's website at www.rta.qld.gov.au; by calling the RTA's free information service on 1300 366 311, or by reading any of the RTA's many publications, including the Information Statement (Form 17) which is given to every tenant at the beginning of a tenancy.

If talking to each other does not resolve the dispute, the RTA's Dispute Resolution Service may be able to help. A request for dispute resolution is made by lodging a *Dispute Resolution Request* (Form 16). If the parties don't reach an agreement after conciliation, an application may be made to the Small Claims Tribunal for an order about the dispute.

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 RTA. Contact details are at the bottom of this fact sheet.

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