

# FACT SHEET

## Goods and Documents Left Behind

The *Residential Tenancies Act 1994* contains provisions dealing with goods and documents that are left behind by tenants when they leave or abandon premises.

### **Terminate the tenancy agreement first**

The tenancy agreement must be terminated before the lessor/agent can remove any goods and documents that are left by the tenant.

See the *Terminating a Tenancy Agreement* Fact Sheet and *Abandoned Premises* Fact Sheet for more information about termination.

Following termination of the tenancy agreement, the lessor/agent may dispose of the goods left behind by the tenant where:

- the total market value of the goods is less than \$1000; or
- storage of the goods would be unhealthy or unsafe; or
- storage of the goods would cause their market value to be completely or substantially reduced; or
- the cost of removing, storing and selling the goods would be greater than the amount raised in the sale of the goods.

If the goods do not fall into one of the above categories, the lessor/agent must store the goods for one month. If the goods are a moveable dwelling, the contents of a moveable dwelling, or other goods used in the occupation of a moveable dwelling, they must be stored for three months.

Documents are defined in the Act to mean personal documents and money.

Personal documents such as passports, birth certificates, photographs and money found on the premises must be given to the tenant or the Public Trustee within seven days from the date the tenancy agreement was terminated or the documents were found.

### **Sale of goods left behind**

After the storage period has expired, the goods must be disposed of by auction unless the Tribunal orders their disposal by another method. The lessor/agent may apply to the Tribunal for an order about the disposal of the goods.

A notice of the auction must be placed in a newspaper circulating in the area where the goods were abandoned. The notice must describe the goods and state the day, time and place of the auction, which must be at least seven days after the notice is published.

The lessor/agent may deduct costs for the removal, storage and sale of the goods from the money raised through the sale. Any money remaining from the proceeds of the sale must be paid to the Public Trustee within 10 days of sale.

The lessor/agent may apply to the Small Claims Tribunal to claim money from the sale proceeds for costs such as rent arrears, cleaning or damage to the premises caused by the tenant.

### **Tenants claiming goods**

A lessor/agent must not refuse a tenant, or another owner of goods, access to their goods and must not withhold their goods. However, the tenant may be asked to pay the storage and removal costs before their goods are released.

Goods and documents may only be dealt with in the manner described above once the tenancy agreement has been terminated and if the lessor/agent reasonably believes that the goods and documents are left behind.

Failure to deal with goods and documents in the way described can be reported to the Compliance Section of the Residential Tenancies Authority and can incur penalties.

Seizure of a tenant's goods and documents in exchange for rent owing or other damages (e.g. repairs, cleaning) is not permitted by the *Residential Tenancies Act 1994*. A lessor/agent may be subject to a penalty if they unlawfully withhold the tenant's property.

Theft of goods and documents can be treated as a criminal matter and can be reported to the police.

### **People dissatisfied with the process**

A person, other than the tenant, who is the owner of goods and who is dissatisfied with the way in which a lessor/agent has dealt with goods can make an urgent application to the Tribunal for the matter to be considered. The Tribunal may make orders for compensation or other orders which may be appropriate.

### **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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