



MACKAY REGIONAL COMMUNITY LEGAL CENTRE Inc.

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Tenants' Rights and Responsibilities in Queensland

Funded by Legal Aid Queensland's Community Legal Education Collaboration Fund



ACKNOWLEDGEMENT OF COUNTRY

MRCLC acknowledges the Traditional Custodians of the land on which we work and live.

We recognise their continuing connection to land, water and community.

We pay respect to Elders past, present and emerging





DISCLAIMER

The content in this publication is intended only to provide a summary and general overview on matters. It is not intended to be comprehensive, nor does it constitute legal advice.

We attempt to ensure that the content is current, but we do not guarantee its currency.

You should seek legal or other professional advice before acting or relying on any of the content in this publication.

Current as at 20 April 2021.

This presentation contains content which will be out of date when the *Residential Tenancies and Rooming Accommodation (COVID-19 Emergency Response) Regulation 2020* ends.



ABOUT THE MACKAY REGIONAL COMMUNITY LEGAL CENTRE INC.

- ▶ Free and confidential legal advice and referrals throughout the Mackay, Whitsunday and Isaac Regional Council areas.
- ▶ 1 hour appointments available between 9:00am – 4:00pm Monday to Friday, either by telephone or in person. Legal advice evenings twice per month.
- ▶ Outreach to Sarina, Cannonvale, Proserpine and Bowen.
- ▶ **MRCLC is a QSTARS provider and accepts referrals from QSTARS – Call 1300 744 263 to request a referral to MRCLC**





OVERVIEW

Starting a tenancy

- Lease
- Entry condition report
- Bond



During a tenancy

- Rent
- Repairs
- Tenant rights



Ending a tenancy


- Ways to end a lease
- Exit condition report
- Bond refunds



STARTING A TENANCY

- ▶ RTA Form 18a 'General tenancy agreement'
- ▶ RTA 'Entry Condition Report'
- ▶ Take photos
- ▶ Bond must be lodged with the RTA within 10 days
- ▶ 'Joint & several' liability with co-tenants

General tenancy agreement (Form 18a)
Residential Tenancies and Rooming Accommodation Act 2008

 residential
tenancies
authority

Part 1 Tenancy details

Item 1 1.1 Lessor
Name/trading name
Address Postcode
1.2 Phone Mobile Email

Item 2 2.1 Tenant/s
Tenant 1 Full name/s
Phone Email
Tenant 2 Full name/s
Phone Email
Tenant 3 Full name/s
Phone Email
2.2 Address for service (if different from address of the premises in item 5.1) Attach a separate list


Item 3 3.1 Agent if applicable. See clause 43
Full name/trading name
Address Postcode
3.2 Phone Mobile Email

Item 4 Notices may be given to
(Indicate if the email is different from item 1, 2 or 3 above)

4.1 Lessor
Email Yes No Facsimile Yes No
4.2 Tenant/s
Email Yes No Facsimile Yes No
4.3 Agent
Email Yes No Facsimile Yes No

Item 5 5.1 Address of the rental premises
 Postcode
5.2 Inclusions provided. For example, furniture or other household goods let with the premises. Attach list if necessary

Item 6 6.1 The term of the agreement is fixed term agreement periodic agreement
6.2 Starting on 6.3 Ending on
Fixed term agreements only
For continuation of tenancy agreement, see clause 6

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Page 1 of 8 v16 April 19



STARTING A TENANCY

Amy, Ben and Cal signed a lease.

When they inspected the property, they noticed the clothesline was broken.

Neither the agent nor the tenants noted this on the Entry Condition Report. The agent and the tenants took photos of the property, but none of the broken clothesline.

At the end of the lease the lessor wanted the tenants to pay to fix the clothesline.

As there were no photos and no evidence in the Entry Condition Report that the clothesline was already broken when they moved in, the tenants' bond was disputed.



DURING THE TENANCY - RENT

- ▶ Pay the SAME amount of rent on the SAME day each week/fortnight
- ▶ Every tenant is liable for the entire amount of rent, not just 'their share'

General tenancy agreement (Form 18a)
Residential Tenancies and Rooming Accommodation Act 2008



Item 7 Rent \$ per week fortnight month See clause 8(1)

Item 8 Rent must be paid on the day of each
Insert day. See clause 8(2) Insert week, fortnight or month

Item 9 **Method of rent payment** Insert the way the rent must be paid. See clause 8(3)

Details for direct credit

BSB no. Bank/building society/credit union

Account no. Account name

Payment reference

Item 10 **Place of rent payment** Insert where the rent must be paid. See clause 8(4) to 8(6)



DURING THE TENANCY - RENT

1) Rent in arrears

- Rent is at least seven days late

3) Notice to Leave

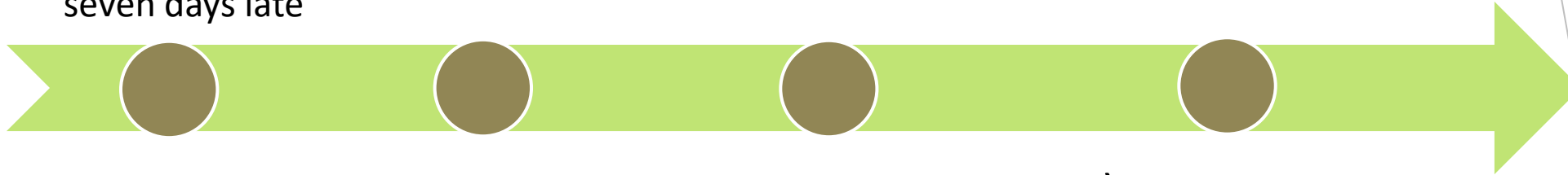
- Tenant given at least seven days to leave

2) Notice to Remedy Breach

- Tenant given at least seven days to pay the arrears

4) Termination Order & Warrant of Possession

- If tenant fails to leave the agent or lessor can apply to QCAT





DURING THE TENANCY - RENT

Amy, Ben and Cal agreed to share the rent equally.

Amy lost her job and couldn't pay her share of the rent. Ben and Cal paid their shares.

The rent was not fully paid for nine days after it was due.

The agent issued all the tenants a Notice to Remedy Breach giving them seven days to pay the arrears.

Amy still couldn't find a new job and could not catch the rent up within seven days.

Ben and Cal were unwilling to pay the arrears.

The rent arrears were not paid within the seven-day notice period and all the tenants were issued with a Notice to Leave giving them seven days to move out.



DURING THE TENANCY - OBLIGATIONS

Lessor responsibility

- Property is fit to live in
- Property and inclusions in good repair
- Ensure the tenant has quiet enjoyment of the property

Tenant responsibility

- Keep the property and inclusions clean
- Not maliciously damage the property, or allow someone else to do so
- Leave the property in the same condition at the start of the tenancy, fair wear and tear excepted

Tenant must inform the lessor

- Of damage to the property
- If the property needs routine repairs



DURING THE TENANCY - MAINTENANCE & REPAIRS

The stove stopped working at Amy, Ben and Cal's home. They asked the agent for the stove to be fixed or replaced. The agent arranged a tradesperson to inspect the oven and provide a quote.

One month passed and the oven had not been fixed or replaced.

Ben decided to call QSTARS for advice and was told the lessor was not complying with their obligations in the lease.

Amy, Ben and Cal sent the agent a Notice to Remedy Breach.

The stove was replaced within a week.



DURING THE TENANCY - MAINTENANCE & REPAIRS

- ▶ Always ask for repairs in writing – letter/email/text
- ▶ Send a Notice to Remedy Breach – seven days notice
- ▶ Keep a copy

Reset Form Print Form

Notice to remedy breach (Form 11)
Residential Tenancies and Rooming Accommodation Act 2008
(Section 325)

Name/s and address

Postcode

1 Address of the rental property

	Postcode
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2 Notice issued by Property owner Property manager Tenant/s

Full name/trading name Phone

1.		
2.		
3.		

3 Notice issued to Property owner Property manager Tenant/s

Full name/trading name

1.	
2.	
3.	

4 Details of the breach

5 If this notice is given for rent arrears

Date rent was paid to / / Number of days rent is overdue Amount of rent owing on the date this notice was issued* \$ * any new rent due during the breach process must be paid on time

6 Notice issued on

Day Date / / Method of issue (e.g. email, post, in person)

7 Date the breach must be remedied by / / (Minimum notice periods apply – see overleaf)

8 Signature/s of the person/people issuing the notice

Print name/s	Signature/s	Date
1. <input type="text"/>	<input type="text"/>	<input type="text"/> / <input type="text"/> / <input type="text"/>
2. <input type="text"/>	<input type="text"/>	<input type="text"/> / <input type="text"/> / <input type="text"/>
3. <input type="text"/>	<input type="text"/>	<input type="text"/> / <input type="text"/> / <input type="text"/>

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DURING THE TENANCY - ENTRY

- ▶ When can an agent or lessor enter the property to carry out an inspection?
 - ▶ With correct form, reason and amount of notice
 - ▶ Not more than every three months
 - ▶ At a reasonable time – not on a Sunday or public holiday, or before 8am and after 6pm
- ▶ Can I refuse entry?
 - ▶ No, if the agent or lessor has acted reasonably and complied with the law



DURING THE TENANCY - QUIET ENJOYMENT

- ▶ Tenants have a right to ‘quiet enjoyment’ of the property
- ▶ Agent or lessor must not interfere with the reasonable peace, comfort or privacy of tenants
- ▶ Offence can be reported to the RTA



DURING THE TENANCY - QUIET ENJOYMENT

Amy, Ben and Cal's lessor, Dave, was using the mailbox at the property for his own mail and would check it every few days.

Dave kept his motorbike in the shed and came every weekend to carry out maintenance on it or take it for a ride.

Dave's constant presence and noise from his motorbike interfered with the tenants' peace and privacy.

The tenants reported Dave's behaviour to the RTA.

The RTA investigated the matter and spoke with Dave about his obligations and the tenants' right to quiet enjoyment.



ENDING THE TENANCY - WAYS TO END

Mutual Termination Agreement

All parties must agree

The agreement should be in writing

End of a fixed term lease

Tenant/lessor can give the correct form and amount of notice

Transfer

All parties must agree

The agreement should be in writing

With grounds

Tenant/lessor may give a Notice of Intention to Leave or a Notice to Leave if there is a ground

Tenant can dispute the reason given in a Notice to Leave with grounds

Tenant can dispute a retaliatory Notice to Leave

QCAT

Tenants can apply for a termination order, commonly for:

Lessor's failure to remedy breach

Excessive hardship

Damage to property or injury to person

Domestic violence

COVID-19

If a tenant can't safely live at the premises because of domestic violence committed against the tenant

Issue a 'Domestic and Family Violence Notice Ending Tenancy'

After seven days the tenant's interest in the lease ends



ENDING THE TENANCY - AVOID A 'BREAK LEASE'

Amy, Ben and Cal decided to take jobs in another town and moved out. They had four months left on their fixed term lease.

They gave the agent a Notice of Intention to Leave with 14 days notice.

New tenants moved into the property two months later.

The agent emailed Amy, Ben and Cal asking for two month's worth of rent, the re-advertising cost and a break lease fee.

Amy, Ben, and Cal were liable to pay the agent those costs because they ended the lease early without the agreement of the lessor or agent.



ENDING THE TENANCY

- ▶ Must return the property in the same condition as entry, except for fair wear and tear
- ▶ Complete the RTA 'Exit Condition Report'
- ▶ Take lots of photos
- ▶ Claim bond first



ENDING THE TENANCY - BOND REFUND

Before they moved out, Amy, Ben and Cal cleaned the property.

They ran out of time to complete the Exit Condition Report and take photos. The agent said they would do this for them.

When they received the completed Exit Condition Report from the agent they saw the agent had listed many things as dirty.

By this time, the agent had already claimed their bond for extra cleaning costs.

Because the agent lodged their bond claim with the RTA first, the tenants had to lodge a claim with the Tribunal asking for their bond.

At the hearing, the tenants had no evidence to show that they had left the property clean, and the agent was awarded part of the bond for the extra cleaning costs.



WHERE TO GET TENANCY HELP



For tenancy advice call 1300 744 263

Open from 9am to 5pm Monday – Friday with extended hours until 7pm on Tuesday and Wednesday. *Please note that we often experience a high volume of calls and you may receive a busy tone or busy message. Please keep trying.*

QSTARS is managed by Tenants Queensland in collaboration with community partner organisations across Queensland.

To contact TQ

Email: mail@tenantsqld.org.au

Phone: (07) 3832 9447 (Admin only)

Post: Level 1, 87 Wickham Tce Spring Hill Qld 4000