



Shelter Tas

Workforce Development Online Q&A Evaluation Report

Residential Tenancy Act – Know Your RTA

31 January 2023

Evaluation

Training session:	Residential Tenancy Act – Know Your RTA
Facilitator:	Alex Bomford Solicitor, Tenants' Union of Tasmania
Date:	31 January 2023
Region:	State wide
Overview:	The session provided a general overview of the RTA and brief outline of possible reforms and changes coming up. Sector specific information including the purpose of the RTA, where it applies, evictions, exemptions, where to find resources and when to contact the Tenants Union.
Resources:	Q&A, links and templates
Participants:	78
Evaluations completed:	39
Overall rating:	90% rated this training good/excellent

Summary

- The training was delivered across the state (online).
- 90% of participants who completed the survey rated the training as good or excellent
- 97% of participants who completed the survey said the session was useful.

Background

Workforce Development Program 2018-23

Shelter Tas has a 5-year funding agreement with the Department of Communities Tasmania (Housing Tasmania) for the Workforce Development Program (WDP) 2018-2023. The purpose of the WDP is to facilitate specialist professional development and training activities that: continue to build workforce

capacity of the housing and homelessness sector; respond to new and emerging sector issues and support Tasmanians who are experiencing, or who are at risk of homelessness.

Shelter Tas is developing, promoting and evaluating a schedule of specialist quality training in line with the following priorities:

- Priority 1 - Increasing the skills and competencies of the SHS workforce
- Priority 2 - Increasing the accessibility of training and professional development to the whole of the sector.

Workforce Development Milestones

Workforce Development Training Summary 2018 to date	Region	Number of meetings/training
Completed Co-design Milestones	Statewide and Online	29
Housing Connect Reform	Online	21
Covid -19 response	Online	17
Face to Face training sessions	Hobart and Devonport	14
Tailored 1-hour training sessions	Online	14

Workforce Development Evaluation Training Summary 2018 to date	Region	Number or %
Training participants	Statewide and Online	886
Participants rated training as good or excellent	Statewide and Online	97%
Participants would recommend training	Statewide and Online	99%
Participants ready to apply learnings	Statewide and Online	99%
Participant rated the knowledge as neutral or poor before the training	Statewide and Online	60%
Participants rated their knowledge after the training as good or excellent	Statewide and Online	100%

Consultation

Shelter Tas has been running a series of online workshops with the Tenants Union of Tasmania during the course of the Workforce Development Program. These sessions have been popular, with participants requesting continued workshops in this area. The training was sourced following sector consultation and the content was authorised by the Workforce Development Reference Group.

Training overview

The Tenants' Union provided a brief overview on the role and function of the tenant's union and an overview of the Residential Tenancy Act. It was noted that the RTA is only 68 pages long and not a hard read, which is very different to the Victorian Residential Tenancy Act which is 843 pages. The Tenants Union advised that there are gaps; that, for some time, a review of the RTA has been promised and when that happens it will be important to hold another session solely on this. Questions were sought from the sector in the leadup to the session and participants were encouraged to raise issues and questions throughout the session. These included:

- Leases: Are there age restrictions on signing a lease? can a sixteen-year-old sign a lease?
- What are the responsibilities of people living in a shared household? If one person gets behind in the rent, who is responsible?
- What is the legal status of sub-leases?
- What is the difference of a boarding house compared to a share house?
- Bonds: when can or cannot you charge a bond?
- What are some ways that providers of social housing, supported accommodation and crisis accommodation can protect tenants' rights?
- What kind of exemptions are there to the RTA?

Suggested themes for future training sessions

- Address how crisis housing providers can manage issues arising from the 12-week exemption to the RTA being too short in practice in current climate.
- Sector overview, outlining the services and providers and how they fit together.
- A more in depth look at the RTA, specifically the segments that apply to crisis and community housing, such as rent increases and giving notice etc.

Q&A Summary and Links:

Presenter: Alex Bomford

Solicitor, Tenants' Union of Tasmania

About the *Residential Tenancy Act 1997* (RTA)

- The RTA covers most matters between landlords and tenants.
It is intended to be useful to non-lawyers.
<https://www.legislation.tas.gov.au/view/html/inforce/current/act-1997-082>
- Until the RTA was introduced in 1997, matters between landlords and tenants were covered by Common Law and the *Landlord and Tenant Act 1935*
<https://www.legislation.tas.gov.au/view/html/inforce/current/act-1935-042>
- **The RTA does not apply to**
 - Sub tenants
 - Lodgers
 - Students living in UTAS accommodation
 - Aged care or retirement village residents

- Shelters, including family violence shelters, have a 3-month exemption from the RTA, or
 - Tenants living in long term caravan parks (hopefully to be resolved with a review of the RTA?)
- Where the RTA does not apply (for instance, the landlord has an exemption) the Common Law applies. This means that an SHS operating under an exemption from the RTA could end up in the Supreme Court to resolve a tenancy matter such as a contested eviction.
- The RTA gives landlords more power to evict than they had before under Common Law or the earlier *Landlord and Tenant Act 1935*.
- The RTA increased the rights of tenants and provides tenants with the ***right to quiet enjoyment***, which means the right to the use of the property without interference.
- The RTA is enforced by the Residential Tenancy Commissioner, for example, when there are bond disputes.
https://www.cbos.tas.gov.au/_data/assets/pdf_file/0003/411492/Guide-to-the-Residential-Tenancy-Commissioner.pdf
- **The role of the Tenants' Union of Tasmania**
 The Tenants' Union of Tasmania (TUT) represents tenants when there is a dispute between a tenant and landlord. There is a team in Hobart, a Tenants' Union solicitor in Launceston Rebecca@tenantstas.org.au, and face to face advice is available in the North West Community Legal Centre.
- If a person is at risk of eviction from private rental, social housing or supported accommodation, refer to the Tenants' Union as soon as possible. Often the tenancy can be saved, and involving the Tenants' Union will likely gain more time for the tenant.
- TUT cannot advise or represent landlords, but the resources on its website can be used by anyone. The *TUT Fact Sheets* are especially useful <http://tutas.org.au/factsheets/>
- A social worker or support worker can contact the Tenants' Union on behalf of a client if they have permission to do so.
- If there is a dispute between tenants, the Tenants' Union cannot represent either party. These cases are referred on to Legal Aid.

Beware of real estate agents providing legal advice

Real estate agents are **not** a reliable source of legal advice. They are not trained to give legal advice, and may not be accurate or accountable, even if they intend to be helpful. Instead, refer to the RTA, or TUT fact sheets, or to your organisation's guidelines.

Key points from presentation and responses to questions from sector.

- **Minors** – people aged under 18 and under 16 can sign leases – so long as the young person understands the nature of the agreement. However, while the law may permit the young person to sign the lease, there may be other barriers, such as low income, or a landlord's or agent's perception.
- **Approved Occupant:** This term is used in public housing, but is not defined in the RTA
- **Shared houses:** All the tenants are jointly liable for the rent and any damage. All can be held responsible for the actions of any individual tenant.
- **Sub-tenancy:** Sub-tenants are not covered by the RTA, but may have a lease under Common Law. Commonly, sub-tenants have trouble getting their bonds back, and they would have to take court action to get it back because they cannot apply to the Residential Tenancy Commissioner. Legal Aid could provide assistance about sub-tenancy disputes (because this would be a dispute between tenants, it is not in scope for the Tenants' Union).
- **Rent Increases:** A landlord can increase the rent for a non-fixed term lease, or a fixed term lease that explicitly allows for rent increases to occur. When a fixed term lease agreement does not include provision for a rent increase, rent cannot be increased

during the term of that lease. The increase notice must be in writing, stating the new rent and the day on which the increase takes effect. The tenant must be given at least 60 clear days' notice and there must be at least 12 months between increases. This does not apply to social housing properties where only 60 days' notice must be given.

- **Bonds:** In general, all residential leases have bonds which are held with the Rental Deposit Authority (RDA) not the landlord. The maximum bond allowable is four times the weekly rent. Bonds are not to be charged for a boarding premise. For tenants finding it difficult to raise the bond, assistance may be available through Housing Connect (see Contacts). A bond can not be charged on a boarding tenancy.
- **Importance of being familiar with the relevant law (RTA or Common Law)** and following RTA proactively to uphold and protect tenants' rights. For example, it is important to understand the tenant's right to quiet enjoyment.
- **Third and final NTV:** Section 43 (2) of the Act covers this - A notice to vacate on the ground of failure to pay rent is of no effect if a tenant pays all arrears in rent before that

notice takes effect unless 2 or more notices to vacate on that ground have been served on the tenant during the immediately preceding 12 months.

- **Crisis accommodation lasting more than 12 weeks** is no longer exempt from RTA and therefore the RTA applies. This includes tenants' rights to 'quiet enjoyment' of property without any obligation to participate in housing providers support programs.
- **Housing standards:** some clarification provided regarding requirement for wired in heating, a flushable toilet (no composting toilets) and addressing mould issues in tenanted properties.