

Tenant protection on the island state of Tasmania

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Tasmania is one of the six states and two territories, of Australia, separated from the mainland by the Bass Strait. The state capital is Hobart, and the whole island has some 500 000 inhabitants. Tasmania is rather sparsely populated and almost 37% of Tasmania lies in reserves, national parks and world heritage sites.

The Tenants' Union of Tasmania Inc (TUT) is one of the primary non-government providers of advice, information, education and referral to tenants in Tasmania.

TUT was formally founded in 1979. Before then TUT consisted merely of a collection of volunteers that answered specific requests for assistance from tenants. It is only over the past fifteen years that the TUT has evolved into a community legal service, with the employment of two solicitors occurring in the last few years.

We provide advice five days per week, which is provided through our volunteer program that we run most years, encouraging all members of our community to join our valuable team of staff. We also offer advice through our drop in service, which operates three days per week. This is operated by our two full time solicitors who provide legal advice to tenants from our office in Hobart. Additionally there is one part time solicitor in the North West of the state. All in all, TUT presently employs six people.

In addition to the provision of legal advice we also provide advocacy for tenants. We do this through legal representation by negotiating with landlords and/or agents and representing clients in conciliation and court hearings. We also provide systematic advocacy for the general rights of tenants. We seek to improve conditions of rental housing in Tasmania for tenants, raise awareness within the community about tenancy issues and promote legislative change to improve outcomes for tenants. Additionally, we conduct community education seminars throughout Tasmania.

TUT is a member of NATO, the National Association of Tenant Organisations, of Australia.

TUT is currently heavily involved in the process of law reform which is being undertaken by the Tasmanian Government. This year 2009 the Tasmanian Minister for Consumer Protection announced a badly needed review of the Residential Tenancy Act 1997, which governs the relationship between landlords and tenants in Tasmania. The key areas of reform that we are seeking are restricting the size and frequency of rent increases, establishing minimum standards of properties, removing arbitrary eviction at the expiry of fixed term leases and otherwise strengthening security of tenure for tenants.

Tenancy agreement is an important strength of the Tasmanian Residential Tenancy Act, which limits the no-ground terminations during the term of a tenancy agreement. However a notice to vacate may be served at the end of a tenancy agreement due to lease expiry. After the expiry of a lease agreement, without receiving a notice to vacate, a tenant will then go on a non-fixed term lease. TUT is seeking to strengthen security of tenure by limiting arbitrary evictions at the end of a tenancy periods and by reviewing the process of termination notices and notices to vacate.

Rent increases is another important issue for TUT. An important aspect of achieving security of tenure for tenants is limiting the frequency of rent increases during the term of the tenancy. In Tasmania at present an owner can increase rent once every six months. It is our position that the owner or agent should only be able to increase the rent once every 12 months and the amount of the increase should be subject to a reasonableness test, for example to an inflation index such as the Consumer Price Index.

One of TUT's key areas of reform of Tasmanian tenancy law is the establishment of minimum standards that an owner must comply with in renting out properties. A fundamental shortfall of our legislation is that there is no requirement to maintain the premises in good repair and there are no minimum standards that an owner needs to comply with. In addition to this when a tenant signs a lease they accept the property in the condition that existed at the beginning of the tenancy, which means that an owner is not required to maintain it above this standard. This tends to leave tenants in a position where

they may be living in properties that significantly deteriorate, as an owner is not legally obligated to repair what is termed fair wear and tear.

The Rental Deposit Authority, RDA, is a result of many years of campaigning. TUT's efforts finally paid off on July 1, 2009, when the RDA was brought into place, so that a neutral body would hold security deposits of tenants rather than property owners and agents. It is also anticipated that the RDA will increase the number of disputes relating to the return of security deposits in Tasmania. It is now compulsory for all security deposits to be deposited with the RDA.

The RDA is funded from the interest accruing from tenants' security deposits. At present the authority has received 8 000 security deposits. Overall 34 000 tenancies were recorded at last census in 2006. The authority has encountered a number of administrative teething problems in recent times but we hope that many of these will be resolved. We have been advised that the RDA will only generate enough interest to cover operating costs for the next five years. TUT believes that the interest from bonds should be used for the benefit of tenants, perhaps through the creation of a tenants Tribunal.

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