Tenants Queensland

Information for tenants affected by mould

When you rent a place to live in Queensland, your tenancy agreement is covered by the *Residential Tenancies and Rooming Accommodation Act 2008*. This fact sheet is for residential tenancies, however most of this information also applies to rooming accommodation such as boarding houses.

About Mould

Mould is a common problem in many homes and workplaces. Mould is a fungi that grows in damp, and poorly ventilated spaces such as kitchens, bathrooms and laundries. Dust and dirt in these areas also helps mould to breed. Mould spores can be damaging to your health, and if left untreated can cause headaches, nasal irrigation, fatigue and nausea.

Mould cannot be killed. It can only become dormant if it dries out. Once conditions are conducive (such as moisture) growth may resume. Therefore, it is important to ensure that the conditions that cause the mould outbreak are rectified, if not the mould will quickly regrow.

What to look for

Discolouration – check for discolouration. Mould can be brown, grey, green in colour.

Smell - your nose knows! A mouldy smell suggests mould is growing in the environment.

Hidden mould – Mould can thrive almost anywhere under the right conditions. If the spores land where it is warm, moist and food is available (including dust and dirt), it can multiply. Check out places that might have leaks, plumbing problems or have been flooded. Check under flooring such as carpets, inside wardrobes and under furniture or behind fridges.

Who is responsible for mould

Mould may constitute loss of amenity or breach of the lessor's obligation to provide premises fit to live in and in good repair. Responsibility for the cleaning or removal of mould depends on the cause of the mould. Mould can develop because of structural issues associated with the property and how it was built, or as a result of how repairs and maintenance were carried out. In these instances, the lessor (or agent) will be responsible for the cleaning and or removal of the mould. Mould which results from the actions of a tenant, for example because of the lack of regular cleaning, will be the responsibility of the tenant.

It is not always easy to determine the cause of mould. When tenants have difficulties with mould, they should keep evidence of when and how it is removed, and in what circumstances the mould appeared in the first instance (e.g. after a weather event). If the mould returns, the tenant's record can be used as evidence. Occasionally both the lessor and tenant will be partly responsible for mould

Floods

A tenancy does not automatically end if a flood destroys or severely damages the rental property.

All tenancies must end by providing notice to the other party or by a written mutual termination agreement.

Mould is a serious problem after premises have been impacted by flood waters. Properties must be remediated to prevent and/or minimise mould growth.

Rent Reduction

If the premises has been damaged, and are partially or completely unfit to live in, the tenant can give a notice of intention to leave due to non-livability. This notice must be given within 1 month of the flood event.
This is **not** a break lease termination.

If you want to stay in the damaged premises, you can try to negotiate reduced rent with your lessor or agent. Put any agreement in writing and keep a copy.

If you can't reach an agreement, you can apply to the RTA for dispute resolution. If the RTA's dispute resolution is unsuccessful, a Notice of Unresolved Dispute will be issued, and you can then apply to the Queensland Civil and Administrative Tribunal (QCAT) for an order about the rent decrease.

If you are not living at the premises while it is being repaired, you are still required to continue paying rent until the dispute is resolved or a rent decrease is provided. If this is not possible it is important to seek advice immediately.

Repairs

Damage to the premises must be reported in writing to the lessor or agent as soon as practical.

If a repair issue is deemed an "emergency repair" under the tenancy legislation, you can apply directly to QCAT for an urgent hearing, or arrange for emergency repairs to be carried out, up to the value of 2 weeks' rent. An "emergency repair" includes flooding or serious flood damage. This does not apply to rooming accommodation.

Repair requests can be outlined on a Notice to Remedy Breach and given to the lessor or agent.

After a flood event, repairs may be delayed due to building reports, insurance assessors, availability of tradespersons/building materials/spare parts.

Cleaning after flood damage

If the premises have been made dirty due to the floods, the lessor is responsible for cleaning the property and inclusions, and you are responsible for cleaning your goods and possessions. However, many tenants, Councils, community groups and individuals assist with cleaning and often an agreement can often be negotiated with the lessor or agent.

If you are moving out, ensure that you clean and remove your possessions. You are not responsible for cleaning of flood damage premises, including removing debris. If there are parts of the property that are not flood damaged and which you can reasonably and safely access, you should return these to the same condition you received them in, except for fair wear and tear.

Bond

You should apply for the bond on the day you return possession to the lessor or agent.

The fastest way to make an online bond claim here https://www.rta.qld.gov.au/rta-web-services/online-bond-refund, you'll need a QGov account.

The other way of claiming the bond is to complete the Refund of Rental Bond form, and post to the RTA.

The RTA will act on the first application or form they receive and will notify the other party that a claim has been made. Make sure the RTA always has a current email and forwarding address for contact.

If a dispute arises about the bond, the RTA will hold the bond while the parties go through the bond dispute process.

Compensation

Generally, compensation is not available for losses caused solely by flood or storm damage.

However, if the lessor or agent:

- was notified of a repair issue prior to an act of nature occurring; and
- they failed to repair within the permitted time stated in the notice (or, if no time is stated in the notice, within a reasonable time), and the failure to repair caused the tenant to suffer a loss/or further loss

you may be able to claim compensation against the lessor/agent.

Mitigation of loss

After a flood event often all parties to the tenancy agreement suffer losses. Tenancy legislation requires both parties to take reasonable steps to mitigate the losses relating to the tenancy.
A lessor who does not act quickly after a flood event, or does not remediate and repair the property, resulting in mould, has not demonstrated mitigation

Personal injury

If someone in your household suffers illness from mould, the first person to consult is your local doctor. You may be considering taking legal action, and you can discuss this with a solicitor or your local Community Legal Centre https://www.communitylegalqld.org.au/find-legal-help/statewide/

Further help

Tenants Queensland (TQ)

Tenants Queensland is a specialist Community Legal Centre that provides a free advice service for tenants in Qld. TQ aims to improve and protect the rights of all people who rent their home
www.tenantsqld.org.au

TQ telephone advice service:

1300 744 263

Statewide: 9am – 5pm Monday to Friday and extended hours Tuesday and Wednesday until 7pm

TQ also delivers the Qld Statewide Tenant Advice and Referral Service (QSTARS)

Residential Tenancies Authority (RTA)

The RTA is the government authority that oversees renting laws in Queensland. The RTA provides information and services for tenants, lessor and agents. RTA forms are available online at www.rta.qld.gov.au or phone **1300 366 311**

Translating and Interpreting Service (TIS)

If you need an interpreter to speak with a tenant advice service call TIS on 131 450

Disclaimer: This flyer provides information only and is not intended to provide legal advice

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