Tenants affected by the floods and storms in Queensland

Tenants Queensland

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.

If you want to leave

Where the premises have been destroyed or made completely or partially unfit to live in because of the floods or storms, you can give a Notice of Intention to Leave using the Residential Tenancies Authority (RTA) Form 13. You can give this notice anytime within one month of the event and leave on the same day. The grounds for the notice are "non-liveability".

- If you live in a caravan park and the park is unliveable you can give this notice.
- If you live in rooming accommodation you can use the Resident Leaving Form.

It is a good idea to take photos and have some evidence of non-liveability in case there is a dispute about it.

If the lessor wants you to leave

The lessor or agent can give you a Notice to Leave where the premises is destroyed or made completely or partly unfit to live in by flood or storm damage. They can give this notice within one (1) month of the event and ask you to leave the same day.

If you want to stay

Where the lessor has given you a notice and you want to stay you can dispute the notice by using the RTA's dispute resolution process. Set out the reasons you want to stay in a letter to the lessor or agent and send a copy of this letter with the RTA Form 16 Dispute Resolution Request to the RTA.

Make sure you mark this Form 16 with a cover note to indicate that your tenancy is in a flood affected area.



Rent

If you want to stay and you have not been given a Notice to Leave, but the premises are destroyed or completely or partly unfit to live in because of the floods, 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 using a Form 16. If the RTA's dispute resolution is unsuccessful, once you receive a Notice of Unresolved Dispute you can then apply to the Qld Civil and Administrative Tribunal (QCAT) for an order about the rent decrease. Even if you are not living there while the premises are being fixed, you are required to continue paying rent until the dispute is resolved. If this is not possible for you seek advice immediately.

Repairs

If the premises is damaged you must notify 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 an RTA Form 11 Notice to Remedy Breach.

Cleaning due to 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 have been helping out and an agreement can often be negotiated.

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

What's inside

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Who's who?

A **lessor** is the person who gives a tenant the 'right to occupy' a residential premises. Lessors often employ real estate agents to manage premises on their behalf.

A **provider** is a person who provides rooming accommodation to residents.

Tenants Queensland (TQ) is a specialist community and legal service which has been providing services to and representing the interests of residential renters in Queensland since 1986.

QSTARS is a program providing specialist advice and support to renters, funded by the Qld Government, delivered by TQ

The **RTA** is the government authority that manages rental bonds, provides forms and information, conducts dispute resolution and investigates complaints of unlawful conduct under tenancy laws.

The Tribunal or **QCAT**, hears and makes binding decisions about residential tenancy disputes.

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Insurance

While the lessor may have a home and building insurance cover for the rental premises, this generally only covers loss or damage to the building envelope and permanent fixtures. This will NOT provide cover for loss or damage to any personal effects, including furniture, clothing, white goods, jewellery or electronic equipment

Tenants and residents are therefore encouraged to purchase contents insurance to cover for any such damage or loss.

Tenants and residents are also encouraged to read the Product Disclosure Statement accompanying the contents policy, and are advised that the insurer is not liable for any loss or damage arising from floods, storms, tsunamis or storm surges in the first 72 hours of the insurance cover period.

Compensation

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

However, if the lessor/ agent:

- was notified of a repair issue prior to an act of nature occurring; and
- 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 make a loss/ make further losses

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

Bonds

You should deal with the bond refund as soon as the tenancy is terminated.

If all parties agree on the bond refund and complete the RTA Form 4 Refund of Rental Bond accordingly, the RTA can immediately refund the bond as long as the names and signatures on the Form 4 match all those currently registered with the RTA.

If you cannot agree with the lessor or agent about the bond, then any person who is a party to the bond can complete a Form 4 and send it directly into the RTA.

The RTA will act on the first Form 4 they receive and notify the other party that a claim has been made. Make sure the RTA always has your up-to-date address for contact.

The RTA will hold the disputed bond amount while the parties go through the bond dispute process.

Tenancy Facts

Tenancy facts information for renters are available at **www.qstars.org.au**

Tenancy Facts include:

- Renting in Queensland
- Starting a tenancy
- Rental bonds
- Rent and other charges
- Entry and privacy
- Repairs and maintenance
- You want to leave
- Lessor ends the tenancy
- Resolving tenancy disputes
- Tenancy databases

Further help

Tenants Queensland

Tenants Queensland (TQ) is a specialist community and legal service which has been providing services to and representing the interests of residential renters in Queensland since 1986. QSTARS is managed by TQ and delivered in collaboration with partner organisations.

For administration issues contact TQ on 07 3832 9447 or visit www.tenantsqld.org.au

Queensland Statewide Tenant Advice and Referral Services (QSTARS)

QSTARS provides specialist tenancy advice, advocacy support and referral for Queensland renters.

Contact QSTARS for tenancy advice on: **1300 744 263**

Open Mon – Friday 9am – 5pm
(extended hours to 7pm on Tuesdays and Wednesdays)

Visit www.qstars.org.au for more information and to access tenancy fact sheets and videos.

Residential Tenancies Authority (RTA)

The RTA is the government authority. RTA tenancy forms are available online at www.rta.qld.gov.au or call 1300 366 311

The Queensland Civil and Administrative Tribunal (QCAT or the Tribunal)

To find your local Tribunal (except for Brisbane QCAT sits in the local Magistrates Court) or get QCAT forms visit www.qcat.qld.gov.au or call QCAT on 1300 753 228

Translating and Interpreting Service (TIS)

If you need an interpreter let us know when you call, or call the TIS translating and interpreting service on 131 450 so they can help you contact our service.

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

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