

RENT BIDDING

Recent media comment indicates that rent bidding has become an issue in the Territory, driven by the high demand for rental properties. Both the NT Government and the REINT have expressed concern about this practice, which is not illegal in itself, however under the *Consumer Affairs and Fair Trading Act* misleading and deceptive conduct is prohibited and in particular circumstances a property agent may be engaging in such conduct. Examples of this are:

- A property is listed at an unrealistically low price, with prospective tenants being asked to offer more.
- A property is listed with a misleading rent range, where the landlord would not rent the property at the lower end of the range.
- A property is listed without a price, and the agent gives applicants unrealistic estimates of what the landlord might accept.
- An agent or landlord tells a prospective tenant that another applicant had offered a higher price when this is untrue.

Consumer Affairs will investigate complaints from tenants where it is evident that misleading and deceptive conduct has been engaged in.

RENT INCREASES

As has been widely reported, the rents charged by landlords for residential properties have increased considerably over the past year or so as demand outstrips supply. Consumer Affairs has received a number of enquiries from tenants on

how and when rental increases can be made; our advice is summarized as follows.

1. Landlords can only increase rent in a fixed term agreement 6 months after the agreement begins, with 30 days written notice. As per Section 41 of the *Residential Tenancies Act* (the Act) the right to increase the rent, and the amount or the method of calculation of the increase in rent, must be specified in the agreement.
2. If a fixed term lease is due to expire and the landlord advises his/her intention to increase the rent at the beginning of a new fixed term tenancy there is no restriction in the Act on the amount of rent that can be charged.
3. If a landlord is signing an agreement to extend the current tenancy then he or she must comply with 1. above.
4. In a periodic agreement the landlord can increase the rent at the end of each rental period as each period is considered to represent a separate agreement.

Tenants are justifiably concerned when landlords make large increases in rent with little notice. Tenants who make an application to the Commissioner of Tenancies for a claim of excessive rent under Section 42 of the Act would require sufficient evidence to be provided (eg by a qualified independent valuer) of the rent being excessive in relation to comparable properties in the locality and the level of services provided under the agreement.

PROPERTY AGENTS EDUCATION

All agents were offered the opportunity to have the Tenancy Officer attend their premises to address several key areas of the *Residential Tenancies Act* which experience has shown cause errors to be made in processing Applications to the Commissioner of Tenancies. All but 6 agents have responded positively to this offer to date, and due to the high turnover of property agents in the NT, Consumer Affairs will continue to offer this service on an 'as needed' basis.

TENANCY DETERMINATIONS

In 2005 and 2006 a number of Determinations (Orders) of the Commissioner of Tenancies were loaded on to the Consumer Affairs website

www.consumeraffairs.nt.gov.au with a search function so that Determinations of particular interest could be accessed using key words. This function was quite basic, so key Determinations that clarify the Delegate of the Commissioner's interpretations of the *Residential Tenancies Act* in 2006 and 2007 have now been loaded on a national database of legal cases maintained by the University of New South Wales. Interested persons should access the link <http://www.austlii.edu.au/au/#nt>.

Further cases will be loaded on this site in the near future.

TENANCY ENQUIRY STATISTICS

For the year from February 2007 to January 2008, 713 Orders were issued by the Commissioner of

Tenancies from a total of 1016 applications. Of these 536 were Section 100A and 122 Orders for termination, possession and/or compensation, 34 for possession alone, 89 for compensation, 25 for security deposit disputes and 11 for repairs. In addition 182 applications were withdrawn at Inquiry, mainly for termination, possession and compensation, due to errors in the application or withdrawal of the application due to the terms of the agreement being met.

A number of applications did not proceed to Inquiry due to preliminary conciliation by the Tenancy Officer. This very valuable function of Consumer Affairs has in many cases produced a satisfactory outcome for landlord and tenant without the need for the dispute to go to an Inquiry. Landlords, agents and tenants can also reach agreement in many cases by good communication and early attention to problems arising in the tenancy.

'A GUIDE TO RENTING IN THE NT'

A large number of copies of this free publication are being printed by the Government Printer and are available for orders by agents, landlords and tenants by contacting Consumer Affairs on 8999 1999 or 1800 019 319. Individual copies can be posted but larger numbers should be collected from the Consumer Affairs offices on the Ground Floor, Old Admiralty Towers, 68 The Esplanade, Darwin NT 0800.