

Fact sheet

Tenancy databases

Tenancy database listings

Tenancy databases are legitimate tools that give lessors a means of protecting their property investments. However unfair listings have occurred in the past. Queensland laws about tenancy database listings set out who, when, and under what circumstances a person can be listed. They also allow the Tribunal to hear and resolve disputes resulting from both proposed and existing listings.

The *Residential Tenancies and Rooming Accommodation Act 2008* (the Act) provides protection against incorrect and unfair listings while recognising the lessor's right to take reasonable steps to protect their property.

Who can be listed?

Only tenants named on the tenancy agreement can be listed on a tenancy database. Approved or unapproved occupants, visitors or children cannot be listed. This is because only the named tenant/s are accountable for the rental premises and have obligations under the tenancy agreement.

When can a tenant be listed?

Tenants can only be listed on a database after the tenancy agreement has ended.

What can a tenant be listed for?

A tenant named on the tenancy agreement can only be listed after the tenancy has ended in one of the following circumstances:

Amount owing

Tenants may be listed where the agreement has ended and the amount owing exceeds the rental bond, and:

- the money is owed under a conciliation agreement or Tribunal order, or
- they have been served with a *Notice to remedy breach* (Form 11) for rent arrears and have failed to remedy the breach, or
- after abandonment of the premises, unless the dispute is currently subject to a Tribunal determination.

Objectionable behaviour

A tenant can be listed for objectionable behaviour where the Tribunal has terminated the tenancy agreement for that reason.

Repeated breaches

A tenant can be listed for repeated breaches where the Tribunal has terminated the tenancy agreement for that reason.

What must the listing person do before listing information about a person?

The listing person must not make a listing on a tenancy database unless they have advised the tenant in writing and given details about the proposed listing, or have taken reasonable steps to

advise the tenant of the proposed listing. The tenant must be given a reasonable opportunity to consider the information that is going to be entered.

A tenant cannot be listed on a tenancy database for any reasons apart from those listed above.

What can a tenant do about a listing?

If a tenant is aware of a proposed or existing listing and if they don't agree, they can:

- talk to the listing person and try to reach an agreement or, failing that,
- lodge a *Dispute resolution request* (Form 16) with the RTA's dispute resolution service that can assist in attempting to negotiate an agreement about a listing, particularly about a proposed listing, or
- apply directly to the Tribunal to order the person, agency or tenancy database operator not to list, or vary the listing with certain changes and/or conditions as appropriate.

A dispute about a listing on the grounds it does not meet the approved criteria must be initiated within six months of the tenant becoming aware of the listing.

What if the listing person doesn't do what the Tribunal ordered?

Any person or agency (including a tenancy database operator) not complying with a Tribunal order can be prosecuted in the Magistrates Court and be charged up to 50 penalty units or \$5,000 (as at 1 July 2009). They can also be fined up to 5 penalty units (\$500) for each day the offence continues.

Tenants should contact the RTA in order to make a complaint.

Is it possible to obtain compensation for listings?

If the person or agency (including a tenancy database operator) does not comply with a Tribunal order about a listing and is subsequently convicted, the Magistrates Court may make an order for them to pay compensation to the person they listed. However, there would need to be clear evidence of damage or suffering as a result of the listing for compensation to be ordered.

Further information

For more information contact the Residential Tenancies Authority on 1300 366 311.

Accessing RTA forms

The RTA's forms can be obtained electronically or in person by:

- rta.qld.gov.au
- 1300 366 311
- Level 23, 179 Turbot St Brisbane



If you need interpreting assistance to help you understand this information, contact TIS on 13 14 50 (for the cost of a local call) and ask to speak to the Residential Tenancies Authority (RTA).

221 – v7 Oct12



Disclaimer

This fact sheet is prepared for information only. The Residential Tenancies and Rooming Accommodation Act 2008 is the primary source on the law and takes precedence over this information should there be any inconsistency between the Act and this fact sheet.