Tenant databases

As a tenant you have rights under the *Residential Tenancies Act 2010* and *Residential Tenancies Regulation 2019*. This factsheet summarises the law in NSW about tenant databases or 'blacklists' kept by privately-owned (usually for profit) database operators, such as TICA.

What are tenant databases?

Tenant databases are run by private companies. They gather, store, and share information about tenants, including residents of land lease communities or residential parks, who are listed as 'bad tenants' by real estate agents, landlords, or park operators.

The records they hold are separate from those kept by credit reporting agencies and serve a different function. They are concerned entirely with a person's performance as a tenant.

Real estate agents, private landlords, park operators and others can subscribe to tenant databases. This allows them to check listings made about tenants by other subscribers and to list information about tenants to these databases.

What restrictions are there on database listings?

Restrictions on landlords/agents making a listing

A landlord/agent can **only** list information about a person in a tenant database if **all of these five criteria** are met:

1. the person was a tenant (or co-tenant) under a residential tenancy agreement;
2. the residential tenancy agreement has ended;
3. the person **breached** the tenancy agreement (for example causing damage or not paying the rent);
4. because of the breach the person **owes more than the bond**; or a **termination order** was made by the NSW Civil and Administrative Tribunal (NCAT);
5. the information identifies the type of breach and is **accurate, complete, and unambiguous**.

Before the landlord/agent can list information about a tenant, they must:

- give the tenant a copy of the information they want to list on the database (or take other reasonable steps to give them a copy of the information);
- give the tenant at least 14 days to review the information and respond; and
- consider any response by the tenant.

If the landlord/agent fails to do this, they face a fine up to $2,200.

In their response a tenant can:

- object to the entry of the information in the database; or
- object that the information is inaccurate, incomplete, or ambiguous

Restrictions on database operators making a listing

A database operator, or anyone else, must not enter information about a tenant in a database unless:

- it is at the request of a landlord or landlord's agent; and
- the landlord/agent follows the restrictions outlined above in 'Restrictions on landlords/agents making a listing'

Limit on period of listing

A database operator must not keep personal information in its database for more than **3 years**.

Domestic violence

If you end your tenancy by giving a **Domestic Violence Termination Notice** (DVTN), you cannot be listed on a tenant database. See **Factsheet 12: Domestic violence and renting**.

How do I find out about a listing on a tenant database?

If you are **leaving a tenancy**, it is a good idea to make sure the landlord/agent has an email address or forwarding postal address for you. They are required to let you know if they plan to list you on a tenant database (see 'What restrictions are there on tenant database listings?' above).

When you apply for a tenancy

If you apply for a tenancy and a landlord/agent finds information about you on a tenant database, they must write to you within 7 days and tell you:

- that you are listed
- the details of the landlord/agent who listed you (from whom you can seek a copy of the information)
- how to contact the database operator to find out what information it holds about you
- how and in what circumstances you can have the information removed or amended (see 'amendment or removal of listings' below)

If you suspect you are listed and want to be sure, you can write to the landlord/agent, using our **Sample letter: Request for confirmation of listing on tenancy database**.

Contacting the landlord/agent who listed you

Write to the landlord/agent who listed you and ask for a copy of the information about you in the database. They must provide it within 14 days, free of charge. You can use our **Sample letter: Request for confirmation of listing on tenancy database**.

Contacting database operators

You can contact a tenant database operator to find out if

there is a listing about you. They must give you a **free copy of information held about you** within 14 days of your written request. You may need to contact more than one operator to find out which one holds information about you.

One of the main operators in NSW is TICA. You can request a free report on your listing by writing to them at PO Box 120, Concord NSW 2137 or **via their website**. TICA also advertises that you may pay for a 'full report.' This may contain additional information about you, that TICA may have gathered separately.

Other database operators include:

- **National Tenancy Database**
- **Trading Reference Australia**
- **Barclay MiS**

Are there fees for finding out about a tenant database listing?

Since 23 March 2020 tenant databases have been **required to give you *free* access to information about your listing, within 14 days** of your written request.

If you are a NSW resident and have paid for access to information about you on a tenant database, where it was not clear that access could be granted for free, consider making a complaint to NSW Fair Trading. For more information, see our **blog article: TICA charging you for access? No more!**

From October 2024 a **ban on fees for background checks** came into effect. This means that landlords, agents, and third-party companies are not able to charge prospective renters for background checks when applying for a rental property. However, be aware that if you voluntarily request your own 'background check' (which may contain information beyond a database listing) you may be charged a fee. We are not aware of any evidence that these checks assist in securing a property. See also **Factsheet 02: Starting a tenancy**.

How do I get a tenant database listing amended or removed?

If a listing is inaccurate, incomplete, ambiguous, and/or out-of-date, write to the landlord/agent who listed you and ask them to amend or remove it. You can use our **Sample letter: Request to amend tenancy database listing**.

If a landlord/agent becomes aware of inaccurate, incomplete, ambiguous or out-of-date information on a database, they must write to the database operator within 7 days and instruct it to:

- amend the information to make it accurate, complete and unambiguous; or
- remove the out-of-date information from the database.

The database operator must then amend, or remove, the information within 14 days. If it does not, it faces a fine of up to $2,200.

If you have been listed in a case of mistaken identity, you could consider taking legal action. Get legal advice – contact your local **Community Legal Centre** or **Legal Aid NSW / LawAccess NSW** (phone 1300 888 529).

Disputes about listings

You can apply to the NSW Civil and Administrative Tribunal (NCAT) for an order that information about you is:

- wholly or partly removed from a database;
- amended; or
- not listed in a database.

The Tribunal may make an order if it is satisfied that:

- the information is inaccurate, incomplete, ambiguous or out-of-date; or
- the inclusion of the information in a database is unjust in the circumstances.

See **Factsheet 11: NSW Civil and Administrative Tribunal**. Contact your **local Tenants' Advice and Advocacy Service** for advice about taking action in the Tribunal.

Tips to minimise the impact of a listing

There are a few things to consider:

- Find out who listed you and why. Get as much information about a listing as you can from as many sources as possible. This might involve writing to a database operator or an agent you suspect made a listing.
- If you do not dispute the reason for the listing, talk to the landlord/agent about what you can do to resolve the issues that lead to the listing (e.g. making payments towards a debt). Keep a written record of any agreement you come to.
- Once you have resolved the issues, ask the landlord/agent to provide something in writing that acknowledges the issues have been resolved. If they are reluctant to do so, keep your own documentation that will serve a similar purpose.
- Get tips for finding a property and applying to rent in our **New Renters Kit** and **Factsheet 02: Starting a tenancy**. You may also wish to add to your rental application using our sample letters: **Cover letter for rental application**, **Rental history letter**, **Character reference**.

Landlords'/agents' use of databases can vary depending on your local area. Contact your **local Tenants' Advice and Advocacy Service** to discuss how you can best apply for other tenancies if you are listed.

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TENANTS' UNION OF NEW SOUTH WALES