



TENANT NEWS

60 Pittington St
Millers Point 2000
Tel: (02) 47-1113

nsw

no.17

july 1982

LAW REFORM a better deal for tenants

Over the last nine months, a group in which the Tenants' Union participated and known as the "Cabramatta Working Party" has prepared a report on Landlord/Tenant Law Reform. The report is published in a booklet called "Reforming a Feudal Law" and is available from the Tenants' Union for \$2.50 or \$3.00 incl. postage.

The Working Party has identified the major issues facing tenants and has drawn up a complete package of proposals to deal with these issues. The reform proposals are complementary to each other and will not work unless implemented as a whole. For example, the provisions dealing with security of tenure and arbitration of high rents are essential. Without them the provisions dealing with maintenance and repairs are unworkable. It is generally impossible for a tenant to take action on questions of repairs and standards unless they are protected from retaliatory evictions and rent increases. A summary of the report's recommendations are included below.

CAMPAIGN

A campaign is being launched to have this report adopted into legislation. If you wish to be involved please contact us at the Tenants' Union office.

Also:

- * Read the report and tell your friends about it.
- * Discuss the report through organisations with whom you are associated, e.g. in the workplace, through your Union, etc.
- * Join or form local tenants' groups. Contact Shelter on 699-4057, or the Tenants' Union to find out if there is a Tenants' group in your area.
- * Visit your local State Member of Parliament.
- * Write to and/or petition your local State Member of Parliament and:
The Hon. Paul Whelan, MP.,
Minister for Consumer Affairs,
Parliament House,
Macquarie Street,
SYDNEY N.S.W. 2000.
- * Write to the Hon. Neville Wran, Premier, and the Hon. Jack Ferguson, Deputy Premier, State Parliament House, expressing your concern that residential landlord and tenant law reform be undertaken seriously and carefully to protect tenants' homes in this current housing crisis.
- * Write to the Hon. Malcol, Fraser, Prime Minister; The Hon. John Howard, Treasurer; and the Hon. Doug Anthony, Deputy Prime Minister, urging the Federal Government to spend more on public housing to relieve the housing crisis in N.S.W.

summary of recommendations

NEW LANDLORD AND TENANT LEGISLATION

A new piece of legislation should be drawn up to deal with residential tenancies. It should lay down a basic charter of rental housing rights and duties that are fair to both parties.

It should apply to all agreements to occupy residential premises, including Housing Commission and other public tenancies, agreements to occupy caravans and caravan sites, and boarding houses.

The language of the Act should be as clear and simple as possible, and the reforms should be extensively advertised, particularly amongst migrants, low-income earners and other disadvantaged groups. The Act should be administered by the Department of Consumer Affairs and funded by interest from the Rental Bond Board.

A Residential Tenancies Tribunal

A Tribunal should be established for resolving all tenancy disputes.

It should be a specialist tenancy court, administered similarly to the Consumer Claims Tribunal, providing cheap, efficient remedies to parties. Legal representation should not be permitted and costs should not be awarded, lay representatives only should have a right to appear to assist disadvantaged parties; it should not be bound by formal rules of evidence or procedure.

The Tribunal should have exclusive jurisdiction over tenancy disputes and have broad powers at its disposal. It should have an arbitration function only and not act as a conciliator; it should be assisted by a staff of investigating officers.

The Tribunal should administer the lodgment and refunding of bonds, and keep a registry of rents and other housing information. Hearings should be available in the evenings and the Tribunal should be able to operate on a decentralised basis.

Eviction and Security of Tenure

Termination of agreements should only be allowed where there is just cause and where a valid notice to terminate has been served on the tenant. A landlord would have just cause for terminating a tenancy, and if necessary seeking that the tenant be evicted, where the landlord needs possession

- (a) for doing major renovations or for occupation by him/herself or family (90 days notice would need to be given); or
- (b) for strate-titling, demolition, conversion to use other than residential rental, or where the premises have been compulsory acquired by public authorities. (One year's notice would need to be given, or, alternatively, the owner could provide the tenant with other suitable accommodation).

Requiring vacant possession for the sale of premises should be a ground for terminating an agreement only where an incoming purchaser or his/her family wishes to occupy the premises - 28 days' notice would need to be given and the tenant should have the option to remain in possession until the day before settlement of the transaction.

Where there is a change of landlord and the tenant is entitled to remain in possession the rights and obligations under the agreement should remain unaltered.

It should be a serious offence to evict a tenant by giving false reasons, and a landlord doing so should additionally be required to compensate the tenant.

- The Tribunal should have power to speedily evict a tenant who is causing serious damage to premises or who is otherwise causing a breach of an agreement which has serious consequences.
- In all other cases of breach of agreement a "notice to remedy" should be served on the tenant. Failure to remedy the breach would lead directly to a hearing with the Tribunal to arbitrate the dispute; the Tribunal should be directed to use as far as possible remedies other than eviction to enforce the tenant's obligations. Remedy of a breach prior to a Tribunal hearing should act as a stay of proceedings.
- The tenant should also serve a "notice to remedy" on the landlord to enforce his/her obligations where necessary.
- In principle, the causing of nuisance by a tenant, which is a neighbourhood problem, should not be dealt with by a landlord/tenant Tribunal. Only until such time as neighbourhood dispute resolving mechanisms, such as Community Justice Centres, become more effective should the Tribunal resolve such disputes.
- A tenant should have a right to renew a fixed term agreement, or otherwise it should automatically become a periodic agreement, unless it has been terminated by the means mentioned above. A tenant not wishing to renew an agreement should give 21 days' notice of termination prior to the end of the term.
- The Tribunal should have a discretion to postpone orders for recovery of possession in case of hardship for up to 90 days. The Tribunal should also administer a hardship account to offer temporary financial assistance to tenants in need.
- A landlord should not be permitted to unreasonably refuse a tenant permission to sub-let or assign a lease. Automatic assignment should occur to tenants' relatives in possession or in case of misfortune to the tenant.
- Either party should be entitled to terminate the tenancy where the premises are substantially damaged.
- The Tribunal should have sole authority to determine if recovery of possession is permitted, and its Bailiffs should have exclusive responsibility for executing its orders. Recovery of possession by other means should be a serious criminal offence.
- Retaliatory eviction by landlords, against tenants who have tried to enforce their rights, should be a serious offence. Any order obtained by this means should be declared invalid.

3. Rental Bonds

1) The Interest on Bond Money

- The interest obtained by the State Government from tenants' bond money is tenants' money: it should be used to assist rather than spent on home ownership schemes as at present.
- The interest should be used to fund the administration of the new legislation, and the surplus should be directed to public rental housing or participatory housing schemes such as non-profit rental co-operatives.

2) Lodgement of Bonds

- The present system for dealing with bonds should be reformed in these ways:
 - (a) The Tenancy Tribunal should take over the functions of the Consumer Claims Tribunal with respect to bond disputes, and those of the Rental Bond Board with respect to lodgment and refunding of bonds.
 - (b) A tenant should be given a receipt immediately upon paying the bond to the landlord, and the landlord should face a heavy fine for failing to lodge the bond with the Tribunal within 14 days.

- (c) A bond should be refunded within 7 days of the Tribunal being notified of termination of an agreement.
- (d) Where a landlord wishes to make a claim on the bond the Tribunal should be obliged to take steps to notify the tenant of the claim.
- (e) Matters for which a landlord may claim should be clearly stated in the legislation.
- (f) The maximum amount of bond to be charged on any premises should not exceed four weeks' rent, and no additional costs, such as insurance premiums, should be able to be passed on to the tenant.

4. Repairs and Maintenance

1) A Rental Housing Code

- Present minimum statutory standards of habitation for residential premises should be codified. The legislation should be updated and improved so that the code would represent a detailed standard for housing conditions and facilities.
- The Code should be written in a simple form and it should be gradually implemented over a period of, say, ten years; it would operate as a consumer device for improving standards of rental housing, especially by setting a minimum standard of habitation to which rented premises would need to comply at the commencement of an agreement.
- Adherence to the code should be a term of tenancy agreements, and it should be enforced through the Tribunal acting in conjunction with public authorities, particularly local councils.

2) Repairs Generally

- Tenants should be obliged to keep rented premises clean and repair any damage they cause; landlords should ensure that the premises comply with the proposed Code at all times and that they are maintained at a similar standard as at the commencement of the lease.
- To avoid disputes over responsibility for damage, the use of condition reports should be mandatory.
- Either party should be able to enforce the other's obligations to repair or maintain by use of a "notice to remedy" and by resort to the Tribunal if necessary.
- A tenant should be able to arrange for defined essential repairs to be done him/herself where the landlord cannot be contacted and the repairs need to be done quickly.
- A landlord should not be able to unreasonably refuse a tenant's request to make alterations to the premises, including the installation of fixtures.
- Dwellings which substantially fail to comply with the Code should be declared sub-standard. The rent should be determined and fixed on the premises by the Tribunal until such time as the required work is completed to bring the premises up to standard. Uninhabitable housing should not be permitted on to the rental housing market.

5. Rent Regulation

- A Government enquiry needs to be established with the purposes of formulating a system of rent regulation which would be best suited to deal effectively with the inflationary rent spiral afflicting tenants in New South Wales. The State Government needs to develop a rental housing policy, dealing particularly with low income earners, migrants, and other disadvantaged groups, of which rent regulation should be an integral part.
- As an interim measure, methods for dealing with some of the problems of high rents must be introduced:
 - (a) Rent increases should be restricted to one per year, regardless of change of tenant;

(b) Sixty days' notice of an intended increase should be given to the tenant.

(c) The Tribunal should arbitrate on any disputed, intended increase, taking into account the standard of the premises; the landlord's capital gain; expenditure by the landlord or tenant on improvements; the landlord's costs, and any other factors it sees fit.

- A rent determination by the Tribunal should have effect for a period of 12 months.
- It should be a serious offence for a landlord to increase rent for the purpose of evicting a tenant or retaliating against his/her resort to legal rights.

6. Applicability of Reforms

- New legislation should be made applicable to all residential tenancy agreements, written or oral; it should bind the Crown, and should apply to caravan dwellers, to boarders and lodgers, and to tenancies held in conjunction with employment.
- Parties should have now power to contract out of the rights and obligations under the new law without permission of the Tribunal; and it should be an offence to insert terms in an agreement which are contrary to the law.

7. The Lease Agreement

- A statutory lease should be prepared and distributed by the Department of Consumer Affairs; it should be unlawful where the parties wish to use a written lease, to use any other.
- The landlord should give an unstamped copy of the agreement when the tenant is given possession of the premises; costs in preparing leases and "Submission Fees" should not be charged to tenants; it is recommended that stamp duty on leases be abolished.
- Lease agreements should be for a period of twelve months unless the tenant nominates a shorter period. The landlord should be able to seek a shorter period upon application to the Tribunal
- Tenants should be entitled to renew leases at the end of the term, either as a periodic lease or as a lease for a fixed term of an equivalent length as the original.

8. Information and Community Education

- All statutory notices necessary for the administration of the legislation should be clearly and simply written, be available in the major languages, they should outline practical administrative procedures and reiterate the main protections of the law.
- A kit of explanatory materials should be made available to each tenant at the start of a lease in the language of his/her choice. It should contain pamphlets outlining the processes of renting, the tenants obligations and the procedures for enforcing rights under the law.
- The Department of Consumer Affairs should employ a Tenancy Education Officer to prepare and disseminate tenancy information for schools and community organisations.
- Improved funding should be made available for independent tenancy advice services, both to improve present advice networks and so that they could perform an effective lay advocacy role before the Tribunal.

9. Discrimination

- The Anti-Discrimination Act should be extended to prohibit discrimination against people with children and the unemployed who are prospective tenants.

- Information services for landlords and managing agents which publish a "blacklist" of allegedly defaulting tenants should not be permitted to operate.

10. Rent and Other Costs

- No more than two weeks' rent should be demanded in advance and receipts should be given immediately to the tenant; landlords should keep complete records of rent payments; the use of rent books should be available at the option of the tenant.
- The landlord should be responsible for all rates, taxes, etc. and excess water, resulting from landlord's failure to maintain services, and the tenant should pay for utilities (telephone, electricity, etc.) which are separately metered in the name of the tenant.
- The tenant should be required to pay no other charges: demand for payments other than bond and rent, should be a serious offence.

11. Privacy and Access

- The landlord's right of access should be clearly defined. Access should be permitted only in case of emergency, and at other times adequate, written notice should be given to the tenant.
- It should be a term of all agreements that the landlord not interfere with the tenant's quiet enjoyment of the premises; it should be serious criminal offence for a landlord to harass a tenant or otherwise interfere with a tenant's privacy.
- Tenants should be permitted to change locks without permission of the landlord.

DATES TO REMEMBER

tenants' union meetings

Meetings are open for all members to attend. They are held regularly on the **2ND MONDAY** of each month at 118 Regent Street, Redfern starting 6.30pm.

multilingual tenancy info.

A series of eight articles on tenants' rights have been prepared for publication in the ethnic press. To date have appeared in:

ITALIAN: in "La Fiamma" (comes out every Monday);
in "Il Lorriene Di Settegiorni" (the complete series has already been published);

POLISH: in "Polish News" (the series begins on 14th August)

Other languages will be published shortly.

REPORT

THE LAST SIX MONTHS

The Tenants' Union Resourcing Unit currently supports and resources 33 Tenants' Advice Services (TAS) across N.S.W.. The Unit continues to consolidate the network, developing new TAS where required particularly in areas and regions where there is a high rental stock. The needs for TAS is urgent in the context of the housing crisis facing N.S.W. where increasing pressure is placed on tenants, low-income tenants in particular. Considerable effort by the Unit has allowed TAS to begin to respond to the needs of public and migrant tenants. The major restraint on the expansion of the network in terms of new T.A.S.'s, training advisors and the production of resources is the inadequate funding of the Unit.

As an important aspect of their range of services, tenancy advice is hosted and offered by:

Bondi Beach Cottage; "Changes", Bondi Junction; Alternatives, Maroubra; Hillsdale Information Centre.

Balmain Info Van; Dulwich Hill Neighbourhood Centre; Manly-Warringah Citizens' Advice Bureau, Manly; Careforce, Newtown; Harris Centre and Laundromat, Pyrmont; Sydney University S.C.C.; Nic Nac, Surry Hills; Kings Cross Tenants' Advice Service; South Sydney Community Aid, Redfern.

Blacktown Accommodation Collective; Burwood Aid and Information Centre; Eastwood Community Aid; Fairfield Neighbourhood Centre; Macquarie Legal Centre, Parramatta; Lidcombe Housing Association for Low-Income Families; Revesby Housing Commission Tenants' Co-op.

Crossroads Community Centre, Miranda; Sutherland C.Y.S.S.

Gosford Community Services; Newcastle Neighbourhood Centre; Lismore Community Aid and Information Centre; Casino Community and Neighbourhood Centre; Mid-Richmond Neighbourhood Centre, Woodburn.

Wollongong C.Y.S.S.; Family Welfare Service, Hilltop; Open House Programme, Springwood; Lithgow Neighbourhood Centre; Bathurst Information Service; Orange Community Information Service.

Other agencies, not nominated as TAS, also offer tenancy advice. This is the result of concerted efforts to build up a range of bi-lingual advisors.

"HOTLINE"

The Hotline refers telephone tenancy enquiries to rostered organisations and individuals from Monday to Friday, 1pm - 9pm, and on Saturday mornings. The Unit is attempting to organise coverage of weekday mornings and to date have an agency to answer enquiries on Friday mornings.

TRAINING WORKSHOPS

Workshops for refreshing staff were run at Bondi Junction, Manly, Balmain Info Van, Marrickville Legal Centre, Kings Cross, South Sydney and Lismore.

Workshops initiating new TAS were run in Dalringhurst, Sydney University, Bathurst (and Orange), Newtown, Wollongong, Woodburn (and Casino).

In addition, workshops for migrants and ethnic workers were run at Auburn, Cabramatta, Hillsdale and Botany.

OTHER COMMUNITY EDUCATION

The Unit staff have spoken on tenants' rights and obligations to single parents' groups at Riverwood and Fairfield West, at Darlinghurst Interagency, Darlinghurst Housing Seminar and Adult Migrant Education classes at Bankstown. The Unit organises a regular show on 2SER-FM for Consumer Magazine on tenants' rights and has made 6 radio carts on tenants' rights for the same radio station. The Unit seeks regular media coverage on the position of tenants.

RESOURCE PRODUCTION

Production and distribution of resources consume a large amount of the Unit's time.

Tenants' Rights Manual: In the first few months of this year, 600 up-dates and 300 new Tenants' Rights Manuals were produced. Distribution was a large enterprise.

Lease: The Unit co-ordinated printing of a standard Tenants' Union Lease. A number of private landlords have used this lease with their tenants. Negotiations are underway for Waverly Council to use the lease with their tenants.

Multi-lingual Tenancy Information: The Tenants' Union received a grant from the Department of Immigration and Ethnic Affairs to print "Your Rights as a Tenant in N.S.W." in 12 languages. This project is well underway and should be complete soon.

Public Tenancy Resources: The Unit participated in production of pamphlets and workshop material for public tenants.

Information Series of Pamphlets (English): The Unit has co-ordinated production of two new titles in the Information Series of Pamphlets: Strata-Title Tenants and Protected Tenancies. The Unit will be investigating the possibility of producing the 11 pamphlets in a booklet.

T.A.S. Circular: The Unit issues a circular to T.A.S. as new information for their services. Needs to be distributed.

T.A.S. CONFERENCE

The Unit organised a day-long conference of TAS on 15th March to enable advisors to meet and exchange information about their service and related activities such as working with volunteers, offering tenancy advice in country areas, the problems of migrant tenants, organising tenants, operating share accommodation registers. Speakers were present from the community legal centres and the Public Solicitor's Office and advised of their roles.

COMMUNITY DEVELOPMENT ROLE OF THE UNIT

The Unit responds to invitations to participate in a wide range of forums dealing with tenancy issues. The Unit participated in a teaching video for N.S.W. University Social Work students on law reform; it liaised with the S.E. Asian Christian conference on housing; Local Government housing officers utilise the Unit for advice on private tenants and services they need; the Unit suggests material for the Housing and Law course at N.S.W. University; the Unit submitted to the Consumer Credit Tribunal on ways that Tribunal can relate to private tenants; the Unit continues to work with public and migrant tenants; the Unit liaises with many local, State and National housing groups' networking and presenting the situation of tenants.

In particular, the Unit has made major contributions to the Privacy Committee defending tenants from proposed computerised information and records on tenants which landlords and agents would utilise. Secret information was condemned at the recent ANZAAS conference using the example of such a proposed Tenant Referral Service. The Unit has contributed in a fundamental way to the Cabramatta Tenancy Working Party whose work, it is expected, will have a striking influence on proposed reform of the landlord and tenant relationship.

DIRECTIONS FOR THE RESOURCING UNIT

All the features and programmes of the Unit are ongoing. The activities are restrained only by funding. As the housing situation in N.S.W. deteriorates the demands on the Unit continue to markedly increase. Community education through service and resource provision plays a crucial role for tenants as pressure on rented accommodation increases. Tenants more than ever need and want to know their rights and our programmes are demonstrably effective.

The Unit will continue to develop new TAS, particularly in South Western Sydney. It will continue to consolidate existing TAS in new ways such as through the Rastern Suburbs Housing Conference. These regional venues bring together local TAS and they examine ways of working together. The Unit participates and disseminates this new information, by the variety of means outlined above.

AT LAST ! housing commission for young

Recently, the Youth Issues Collective, a group of community youth organisations in the Darlinghurst/East Sydney/Waverley area, negotiated a significant youth housing initiative with the N.S.W. Housing Commission.

Six one bedroom flats in a block of 28 owned by the D.M.R. in William Street, Sydney have been let on normal Housing Commission agreements to six single young people. The rental paid by each tenant has been rebated to 20% of disposable income.

The six flats are amongst a group of 14 currently managed by the Emergency Accommodation Unit of the N.S.W. Housing Commission. A further three have been let directly to single and slightly older people whilst the remaining five have been allocated to older tenants previously resident or homeless in the Darlinghurst area.

The initiative represents a significant acknowledgement by the Housing Commission of its responsibility to offer public housing to young people on a permanent basis. Many young homeless people are seeking long-term decent quality low cost housing: not emergency and crisis stays in short-term facilities.

It is significant in this project that the Emergency Accommodation Unit was prepared to negotiate outside its own guidelines and present the cases to the Commission.

As well, it is important that a group of organisations such as represented in the Youth Issues Collective have the responsibility for allocation of prospective tenants when a vacancy occurs. The ability to establish selection guidelines in association with existing Housing Commission criteria is integral in attempting to meet those in housing need amongst single young people.

Finally, within this project, young people aged under 18 have been able to sign normal tenancy agreements. For many homeless young people who are quite capable of independent living, this precedent marks another small but significant first

GARRY MOORE
YOUTH ISSUES COLLECTIVE

TENANT NEWS

TENANTS' UNION OF N.S.W. CO-OP LTD.,
118 REGENT STREET,
REDFERN 2016.

REGISTERED BY AUSTRALIA POST
PUBLICATION NUMBER NBH 2043.

TENANTS' HOTLINE: for advice and assistance
Phone: 698-8033 Mon - Thurs 1pm-9pm
Fri 10.30am-5pm
Sat 9.30am-12.30pm

AUSTRALIAN HOUSING CONFERENCE

SEPT 24TH - 25TH 1982

Venue The Masonic Centre
Cor. Castlereagh and Goulburn Sts.
SYDNEY.

Registrations 302 Castlereagh St.
SYDNEY.

or
PO BOX A15 SYDNEY SOUTH

Ordinary - \$50
concession - \$20
includes papers and food.

ALSO

SEPT 23RD MEETING OF TENANTS UNIONS
AND SQUATTERS - NATIONAL.

AT RACHEL FORSTER HOSPITAL ROUNDHOUSE
180 PITT ST. REDFERN. 10am.

For more information contact the Tenants Union.