

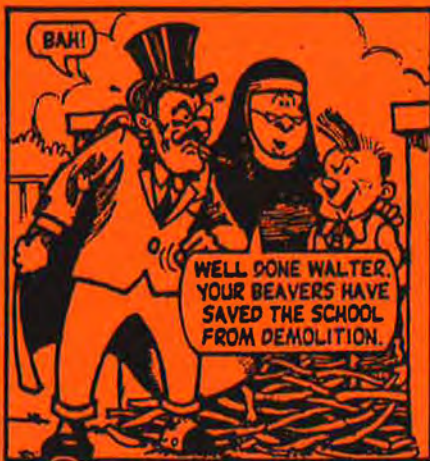
TENANTS UNION OF GREAT BRITAIN
CO-OP LTD
55 Bevington St.
Millers Point 2000

Tenant

NEWS

NO. 48 JULY 1993

NEW LOOK ISSUE



INSIDE

2nd MANT REPORT

COMPUTER FILES ON TENANTS

LEN AT LARGE

HOMEFUND JUSTICE DELAYED

CARAVAN EVICTIONS

FUNDING FOR SHELTER

CONTENTS

About the Tenants' Union :

The Tenants' Union of NSW promotes the interests of tenants, including boarders and caravan park residents.

Since 1976 we have advocated many improvements to laws and administrative procedures affecting tenants and worked to increase awareness of tenants' rights.

Each year the Union continues to assist thousands of tenants with information, advice and referral.

Tenant News is produced to publicise developments in tenants' access to their rights and housing justice. We gratefully receive contributions of up to 1500 words and invite feedback or suggestions for future issues.

The current Board of the Union is :

Sarah Crawford
Jenny Fisher (Treasurer)
Tracy Goulding
Alistair Hart
Mick Hillman (Chair)
Jenny Holdcroft
Katy Jenkins
Beth Jewell
Sandra Koller
Robert Mowbray (Public Officer)
Jake Rance
Rita Wilkinson (Secretary)
Nick Warren (Tenant News Ed. - Ex officio)

Staff of the Union are:

Sue Creek (Co-ordinator)
Paul Mortimer (Project Officer)
Tanya Vojsk (Administrative Worker)

2ND MANT REPORT RELEASED	1
HOMEFUND JUSTICE DELAYED	2
ADMINISTRATIVE WORKER	3
SCHIPP SUNK	4
DRAMATIC ERRORS	5
LEN AT LARGE	6
TRIBUNAL'S VITAL STATISTICS	7
COMPUTER FILES ON TENANTS	7
CARAVAN PARK WORKER	8
LEGAL AID CAMPAIGN	8
COMMUNITY HOUSING PROGRAM	9
BATHURST STUDENTS STUNG	9
PITFALLS OF SHARING	10
TRIBUNAL CASES	11
FUNDING FOR SHELTER	12
LETTERS TO THE EDITOR	12
CARAVAN EVICTIONS	13
DEPARTMENT RESTRUCTURE	14
TECHNOLOGY PARK	15
LOCKOUTS	16
RUSSIAN NEWS	16
INTERNATIONAL TENANTS' DAY	17

This issue was produced by : Tracey Goulding, Jenny Holdcroft, Paul Mortimer, Jake Rance, Nick Warren (Editor).

Other contributors : Harvey Volke, Anne Foley, Natashia Martin, Greg Barber, Sylvia Rapley, Monique Morrison, Hunter-New England Public Tenants' Council.

Printed by Breakout Printing

ISSN-1030-1054

2ND MANT REPORT RELEASED

Commissioner John Mant has finished his report on 'Certain Customer Services under the Responsibility of the Minister for Housing.' It was released on June 25 by the NSW Minister for Housing, Robert Webster.

Services that the report looked at included the Residential Tenancies Tribunal, Department of Housing Tenancy Service, Rental Bond Board and Real Estate Services Council.

Some of his recommendations are good while others are disappointing.

His discussion of community-based Tenants' Advice Services is particularly interesting. He recommends "That the Ministry of Housing consider contracting other information and advice agencies to provide advice services and information services where that would be appropriate."

In the body of the report the Commissioner spells it out, saying:

"It is the case that many tenants are in great need and have little knowledge of their rights under the newly codified law. It is certainly my belief that more resources should be made available to assist the community sector to provide information, advice and assistance."

He makes positive reference to the model for such services put forward by the Tenants' Union, and says that these could be funded through the Rental Bond Board. The Tenants' Union agrees with these comments. Some of the other major recommendations in the report are:

Residential Tenancies Tribunal

*The Residential Tenancies Tribunal be transferred to the Minister for Justice, under the Judicial Commission.

* Increase the Tribunal's jurisdiction from \$5,000 to \$20,000.

* That a formal system of mediation be developed in the Tribunal.

* A training program be developed for Tribunal members.

* That an appeals mechanism for the Tribunal be developed.

Information Services

*A Property Information Service Unit be formed in the new Ministry of Housing to provide information on tenancies, rental bonds, home purchase, use of estate agents, strata titles and retirement villages.

*The new Unit will replace existing services, including the Department's Tenancy Service.

* The new unit could subcontract to regional Department of Housing offices or to community organisations.

Rental Bond Board

* Abolish the Board of the Rental Bond Board, and transfer surplus funds to consolidated revenue.

Real Estate Services Council

* Reconstitute the Real Estate Services Council into two bodies, to separate its licensing and regulatory from its advisory functions.

In the body of the report, Mant was particularly critical of the Department's Tenancy Service and other information services, describing:

- overloaded phone services
- low morale
- disparity in job classifications
- differing management styles
- lack of unified objectives
- inadequately co-ordinated services.

One worrying comment by Mant was that he thought landlords shouldn't have to wait until a tenant was 14 days behind in rent before starting termination action in the Tribunal. The Tenants' Union disagrees: tenancy laws must consider hardship of both parties, and stricter eviction laws won't achieve this.

The Minister for Housing issued a press release with the report. Essentially, this said that the report contained some interesting recommendations and it would take some time to consider these before any action can be taken.

The Tenants' Union hopes that a working party will be set up to implement this report and would be happy to be involved in this process.

HOMEFUND JUSTICE DELAYED

Government responses to date have left the Homefund problems unresolved and borrowers unsatisfied. Continuing pressure from the community sector, Labor Shadow Housing Spokeswoman Deirdre Grusovin and Independent Members of Parliament ensures that this financial disaster will remain a political embarrassment for the Fahey Government.

HomeFund was former Labor minister Frank Walker's policy for low-income housing consumers to purchase houses and flats in NSW. It responded to funding pressure and long public housing waiting lists by 'attracting' private capital to address housing need.

HomeFund was aggressively pursued by Liberal governments after 1988 and marketed as a dream combination of government-secured low cost housing and home ownership.

The scheme was financed by FANMAC, whose shareholders feature AMP and St George Bank as well as the NSW Government, made marginal borrowers attractive to investors by promises of guaranteed high returns. These were based on high fixed interest rates on loans and assumptions of increasing wages, continuing employment, inflating property values and a Government safety net.

This resulted in about 55,000 loans being issued, including over 7,000 to public tenants and loans to people on Social Security income or on the verge of retirement. In 1990-91 alone, loans worth \$1.3 billion were made and in December total borrowings were estimated at over \$3 billion.

Over 400 borrowers and their families have been evicted, a further 3,000 borrowers are in difficulty and arrears, 20,000 borrowers fled the scheme and between 5,000 and 10,000 borrowers still have serious grievances about their loans. In its response, the Fahey Government has delayed, has been particularly sensitive to the concerns of private investors and 'market implications' and has done its best to limit the damage - mainly to ex-minister Schipp.

In April this year the Government withdrew its proposed \$120 million rescue package, including a relief package of \$5,000 per borrower, as an incentive to refinance with other banks.

In defending this decision in Parliament, Premier Fahey highlighted investors' concerns of reduced

returns if borrowers were encouraged to pay out their high interest loans sooner. He also argued that inquiries into HomeFund and parliamentary debates were creating market uncertainty.

Concerted political pressure at this time saw John Hatton appointed to chair a Parliamentary Committee to inquire into HomeFund, but it must deal with Government antagonism and restrictions in its terms of reference. Joe Schipp maintained to this committee that problems with HomeFund were overstated and caused by Opposition criticism, not his Government's five years of administration.

In this period, welfare agencies, financial counselors, community legal centres and several HomeFund assistance groups continued to be besieged by calls from borrowers in distress. Although totally under-resourced to cope with the numbers of affected families, this community network plays a central role in publicising problems with HomeFund.

This and support from sympathetic Labor and Independent parliamentarians has highlighted the needs of borrowers and kept the issue on the Government's agenda.

Remedies that borrowers are looking for include:

- * The immediate reduction of interest rates to 8.5% and cessation of eviction actions.
- * Proper application of loan subsidies (i.e. pegging repayments to 27% of income) and compensation where this has not happened.
- * A choice to unsubsidised borrowers to convert to subsidised loans.
- * An end to delays in crediting payments to loan accounts.
- * Choice of fortnightly payments.
- * Reinstatement of Department of Housing accommodation or waiting list priority for those who lost these in entering HomeFund.
- * Compensation to borrowers for financial loss, stress and suffering.
- * In particular, a one-stop shop service to borrowers where all problems with loans will be addressed with help for borrowers to claim any assistance available.

Late in April the Government agreed to appoint a HomeFund Commissioner to hear complaints and assist borrowers. Subsequently, former Supreme Court Judge Justice Andrew Rogers was appointed.

Justice Rogers, who said he accepted the appoint-

ment because it was "a highly interesting technical problem in dispute resolution", will have up to twenty investigators and a budget of \$2.5 million to investigate complaints over the next seven months.

While allowing the Government to say it is making a response, this response has increased community concerns about the Fahey Government's commitment to assistance.

These concerns arose when the Government restricted the Commissioner's role to assisting only borrowers who can show their legal or contractual rights have been infringed, and when Justice Rogers outlined how he intends to proceed.

The Commission has commenced by advertising for suffering borrowers to fill in a questionnaire to set out each case and provide a full financial profile of each borrower.

Justice Rogers has said the inquiry "is necessary because of suggestions that these borrowers would not have been able to satisfy the requirements that they undertook no matter how the scheme was structured ... once a questionnaire has been completed we're going to feed the material received into a computer system to be selected and that I hope will

show what lines of inquiry need to be pursued...this method might remove the need for hearings in some cases, allowing problems to be pin-pointed on paper."

Borrowers have reported dissatisfaction with their dealings with the Commission - that it does not offer one-stop assistance and often the only assistance is referral to another agency or help in filling in the Commission's questionnaire.

To this are added fears over suggestions that current Department of Housing Capital Funding may be used to bail out HomeFund, thus making people now on Public Housing waiting lists pay for the folly of the Liberals' promotion of home ownership and property speculation.

Whatever result is seen from the Commission's work in seven months or more, it fails to meet the need for quick and substantial resolution of borrowers' hardship.

At best it can be justice delayed, and continues the Government's reluctance to admit a problem, to give adequate relief to borrowers or to address the conflict between expectations of private profit and provision of secure affordable housing.



NEW ADMINISTRATOR

The Tenants' Union has employed a new Administrator to help us run our organisation efficiently. His name is Robert Clayton.

This is a new permanent full-time position, with increased responsibilities over those carried out by our previous administrative position. Robert will co-ordinate all office and administrative procedures.

A decision to upgrade this job was taken at our last Annual Planning Day and the new job description was drawn up.

We would like to warmly thank Tanya Vojsk, who has come to our rescue over the last few months, by filling in as a temporary administrative worker. She has done excellent work and we wish her well.

SCHIPP SUNK

As NSW Minister for Housing from 1988 to 1992, Joe Schipp presided over a dry economic approach to housing provision.

Among his first acts as Minister was the defunding of community-based tenants' advice services and defunding of peak housing bodies. He kept his office's door closed to community consultation or input from those services actually dealing with housing need in NSW.

He also attacked public housing by reducing spending on new housing stock, repairs and services for public tenants. His main policy initiative was the reckless expansion of the flawed HomeFund scheme which now has thousands of participants in serious difficulty with their loans.

Serious public concerns about Joe Schipp's administration came with the exposure of the deep problems being created by his pushing of HomeFund. In fact it was only when John Fahey was temporarily Housing Minister that any action to limit HomeFund was taken. Joe Schipp has continuously presented HomeFund as his big success and refuses to ac-

knowledge the patent problems that now exist.

In mid-June this year, Schipp maintained in evidence to the Parliamentary Inquiry into HomeFund that it was Labor and Independent criticism that was causing concern.

He made this statement despite widespread borrower suffering and Trade Practices Commission recommendations to vary mortgage conditions and assess compensation for borrowers caught up in HomeFund.

In addition to these problems, the first Mant Inquiry looking at the operations of the DoH (see Tenant News No 47) was very critical of Schipp's role as Minister. Amongst other things, Mant expressed the view that the Department did not place enough emphasis on providing a service for public tenants.

With pressure increasing on the Government's performance in housing, Schipp was dumped, first from the Ministry of Housing and then from the Ministry altogether. The Government now faces the task of restoring credibility and confidence in their ability to administer public housing in NSW.





DRAMATIC ERRORS

Greg Barber
Tenants Union of Victoria

We wouldn't want you to get the idea that the workers at the Tenants Union are soapie addicts, but...

Over the last few months, we have seen episodes of our favourite shows where people are in dispute with their landlord. The legal situation hasn't always been portrayed correctly.

We're not saying it's the job of entertainment programs to educate people about renters rights, but life is hard enough for the average renter (there are three quarters of a million of them in Victoria) without them getting the wrong information.

In **E Street**, Jo Jo received 24 hours notice to move out of her house. Jamie, a qualified lawyer couldn't prevent her from being evicted.

The reality is, you can't be evicted on twenty-four hours' notice. The landlord must still go to the Tenancies Tribunal (or in some states the Magistrates Court) to have you evicted. You get a chance to argue your case there.

In **A Country Practice**, an elderly couple were almost evicted from the house they had lived in for most of their lives. Sergeant Tom Newman was on the scene, but his role in the dispute was unclear.

Only a police officer can physically evict someone,

and then only with a court order. If Tom was present, he should have either been carrying out the eviction, by presenting a warrant, or preventing it from happening, if there was no warrant.

In **Home and Away**, Bobby and Greg had to give a psychotic boarder his marching orders. He stormed out screaming "I'm going to call the Tenants Union".

We would have told him that the rights of boarders are a legal grey area, and often people who have done nothing wrong find themselves out on the street because they are not covered by the Residential Tenancies Act.

In a more recent episode of **Neighbours**, Steven said that they have to wait at least a month to get a nightmare tenant out of their house, despite the fact that he assaulted Phoebe. In fact they could serve him an immediate notice to vacate, and apply for an urgent hearing at the Tribunal in the case of dangerous or threatening behaviour.

In every state there is a correct process to enforce your rights, and whether you are a landlord or a tenant, you should never take the law into your own hands.

If any tenant (or soapie script writers) want some independent legal advice, they should call the Tenants Union in their state.

LEN AT LARGE

Recent Sixty Minutes stories exposing feral agent Len Pretti have shown some of the worst aspects of being a tenant. Official response highlights the inadequacy of protection for tenants from such harassment.

On Sixty Minutes, Mr Pretti agreed that he is arrogant and nitpicking and that he hates some tenants. He regularly refers to tenants as 'mongrels' and admitted making unannounced visits to tenants outside legally permitted times. He has admitted driving off with a tenant's water meter to force them out and changing the locks while a tenant was out.

Of his car's bullbar he said, "it gets very handy with garage doors - you just drive the car straight through," and when drawn to the contradiction between the law and his standard practice he said:

"The law is the law, but I'm afraid I have a little problem - I don't like the law so I just take matters into my own hand."

Yet this man continues to practise as a residential managing agent with a licence from the Real Estate Services Council.

When approached about their intended action, the R.E.S.C. said, "Allegations raised in the television program do not automatically constitute admissible evidence which would establish that Mr Pretti is unfit to continue to hold a real estate agent's licence."

The R.E.S.C. did however refer to continuing inquiries and invited relevant complaints, so long as the complaints are :

- (A) written or typed
- (B) signed by the complainant tenant
- (C) include full and detailed particulars of the conduct alleged and
- (D) also include the following specific acknowledgement and undertaking at the end of the statement preceding the complainant's signature:

"I hereby confirm that the information furnished in this statement is true and correct and that if given in evidence to a court and found to be false that I may be liable to punishment. I further undertake that should court proceedings be instituted by the Real Estate Services Council as a result of my complaint I am prepared to attend at court to give

evidence under oath as a witness."

So we need a tenant prepared to comply with these conditions, who has the time/money and courage to assist the R.E.S.C. to do its job and who has nothing to fear from the harassment and retaliation that may follow from such action.

The role of the Residential Tenancy Tribunal must also be questioned. That Tribunal is constantly seeing the same real estate agents gaining expert knowledge of the Tribunal workings, yet still complies with the Government fantasy that being denied representation before the Tribunal does not discriminate against tenants.

Representations on these issues are made regularly by the Tenants' Union to the Government but have so far failed to produce the level of protection that would respond to dangers for tenants such as Len Pretti.



TRIBUNAL VITAL STATISTICS

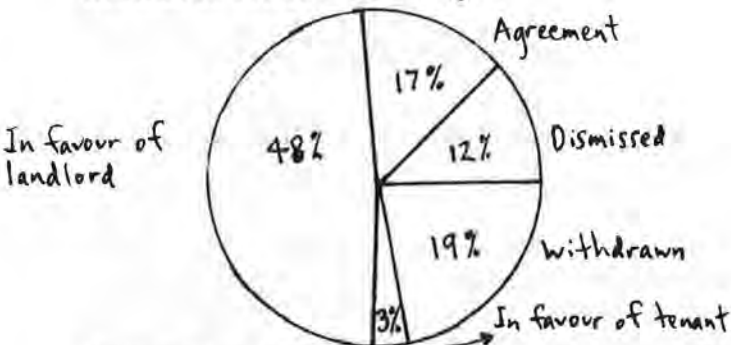
Source: Residential Tenancies Update February 1993.

In the October-December quarter of 1992, the Residential Tenancies Tribunal dealt with 2828 applications, and 2579 applications were lodged.

Who applies for orders from the Tribunal:

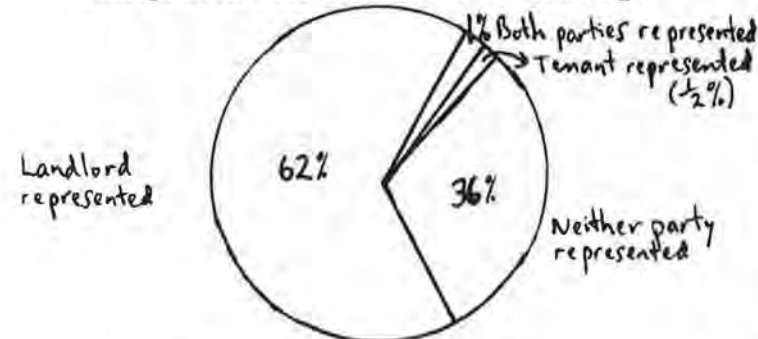
Landlord:	16%
Tenant:	84%

Results of Tribunal Hearings



Representation before the Tribunal:

Interpreters were used in 3.4% of hearings



* Warrants issued: 233 (6.0%)

These figures are alarming in the difference they show in landlords' and tenants' access to representation before the Tribunal. This discrimination against tenants may also explain some of the imbalance evident when sixteen times as many decisions are made in favour of the landlord as are made in favour of the tenant.

The figures also show how busy the Tribunal is in facilitating evictions and how poorly utilised is the option of interpreters.

COMPUTER FILES ON TENANTS

Federal privacy laws prohibit estate agents from having access to computer databanks of people's credit ratings. This is to protect tenants from being unfairly blacklisted.

Such computer files are often inaccurate and people can be unaware that their credit rating has been listed. If the computer shows a bad credit rating an agent might be reluctant to rent to that person.

Last year the Tenants' Union found that Tenant Reference Australia was collecting credit information on tenants for use by estate agents, despite the new laws.

We notified the Privacy Committee of NSW and recently received a letter from the Privacy Committee saying that:

"...the Committee has been in contact with Tenant Reference Australia (TRA), and has made inquiries with regard to the nature of that organisation's database. On the basis of the information provided by TRA, the Committee has decided to undertake a more extensive review of tenant databases in New South Wales, including those maintained by TRA, EAC Multilist and other similar agencies.

We will advise you of the results of the Committee's review, upon its completion."

Their office has told us that they have written to a number of organisations and they have received responses from TRA and EAC Multilist who have been co-operative. Although progress is slow, the Privacy Committee says this is one of their priorities.

It is planned that a report will go to the July meeting of the Privacy Committee and they are hopeful of establishing some basic policy and changes in the operation of such databases.

The Tenants' Union will monitor this. It appears at this stage that the Federal laws do not prohibit estate agents from collecting their own credit data on tenants, which appears to go against the spirit of the legislation.

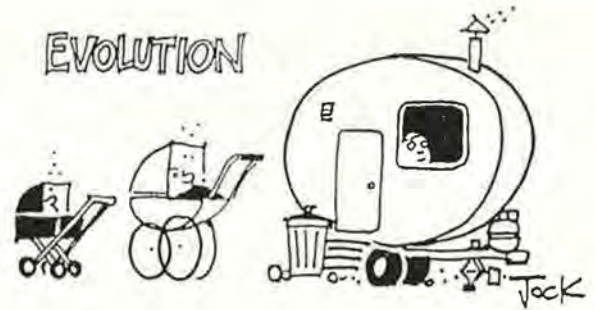
CARAVAN PARK WORKER

Di Evans recently became the first specialist worker for caravan park tenants to be appointed for Western Sydney.

This new position with Western Sydney Housing Information and Resource Network (WESTHIRN) aims to resource residents of parks and mobile home villages by providing information, sponsoring research into the needs of park and village communities and pressing for the development of appropriate services.

\$57,000 has been provided through the Western Sydney Area Assistance Scheme (WSAAS) for the first year of the project. Work will cover 54 parks in the area with 4,800 sites, of which 2,400 are licensed for long-term residency, and WESTHIRN is confident funding will be forthcoming for a second year.

Di comes to the position with several years' experience working with the residents of parks and villages and is interested in extending her contacts in Western Sydney. She can be contacted at WESTS on 635 8559.



LEGAL AID CAMPAIGN CO-ORDINATOR

Fran Gibson has been appointed as the Co-ordinator of the Legal Aid Cuts Campaign by the Combined Community Legal Centres Group. Fran will be the Campaign Co-ordinator for two days a week for six months. She will also continue in her current job at Redfern Legal Centre.

As reported in a previous Tenant News, cuts to the Legal Aid Commission's budget have meant that they are not paying legal costs for most non-criminal cases. This includes tenancy cases. Test cases that go to the Supreme Court need Legal Aid funding, otherwise many tenants simply cannot afford the cost.

The challenge to Department of Housing 'no-cause' evictions was won in the Supreme Court. Without Legal Aid there can be no more test cases about the Residential Tenancies Act or Residential Tenancies Tribunal decisions.

Fran will keep track of activities and co-ordinate people helping with the campaign. A levy account is being organised by the Combined CLC Group for contributions to the campaign. The Legal Aid Defence Alliance will be formed shortly to harness the efforts and contributions of the wider community.

We will publish information as it comes to hand.



NEW FEDERAL COMMUNITY HOUSING PROGRAM

The Commonwealth Government is planning a new Community Housing Program to replace the old 'Local Government and Community Housing Program'. Interim Program Guidelines have been drafted.

The main objective is to develop a viable community housing sector to provide affordable and appropriate rental accommodation. This will involve Government and non-Government organisations, with funding going through the State governments. Tenant participation is also given a high priority.

The Tenants' Union of NSW is represented on the State Advisory Committee which is looking at the guidelines and how the program will be implemented in NSW.

The Advisory Committee will formulate a 3-year Community Housing Strategic Plan, linked with the overall CSHA State Plan. It will also assess individual proposals.

Each State will receive at least \$400,000 a year from the program. Funds will be given to states on a per capita basis.

Funds are to be used mainly to buy, build or upgrade community housing and for developmental grants for organisations to be able to carry out this work.

Funds can also be used to accommodate support workers where this is relevant to special needs of tenants.

And finally, money may be granted to develop the infrastructure needed to support the long term expansion of community housing.

For more information contact the 'Team Leader' of Community Programs in the Department of Housing in your region.

BATHURST STUDENTS STUNG BY LONG LEASES

Source: Sylvia Rapley, S.R.C., Charles Sturt University,
Mitchell Campus

In Bathurst, students are being pressured into signing twelve month leases when in reality, students only want to stay in Bathurst for 9 months. The long leases are insisted upon by agents and landlords as occupancy rates in the district decline during the Christmas holidays.

Some ethical agents and landlords negotiate a rent reduction over the holidays to ensure full occupancy and maintain good tenants in their houses. But new students often don't understand the implications of signing a twelve month lease and are easily pressured into signing one in order to get "scarce" accommodation. The SRC puts warning notices into the student newspaper and hands out tenancy advice during orientation week, but not all students hear the warning.

In a recent case before the Tribunal, students moved out because of problems getting minor repairs done by their landlord. He also refused to negotiate a smaller rent during the holidays. Even though the outgoing tenants arranged for substitute tenants, these arrangements fell through due to the landlord asking for unreasonable terms in the lease. The house was vacant for six weeks.

The tenants had to pay rent of approximately \$1,000 plus one week's advertising costs. The Tribunal, however, refused to allow costs claimed over and above that as the landlord had failed to request them previously. The tenants, who were both in receipt of an Austudy income only, were allowed 6 months to pay.

PITFALLS OF SHARE ACCOMMODATION

Natashia Martin

Well, it wasn't until the third lease I signed that my greatest lessons about being a tenant were learnt. Naively, I volunteered my name with one other person and moved into a five-bedroom house. Six months later the lease terminated and the landlord applied to the Residential Tenancies Tribunal for an order for compensation for \$1,941!

'Pat' (not his real name), the other lessee and I were left alone to fight for the bond at a Tribunal hearing. Fortunately, the Tribunal member rejected most of the landlord's claims and his \$1,941 claim was reduced to \$315. BUT the landlord was given one month to "reapply for compensation in relation to loss of tenancy." So...I found myself off to another hearing 14 weeks after my tenancy had terminated! Here's a brief outline of what was involved:

I moved out of the house 4 months into the term of the 6 month lease and a friend of the others, 'Mick' (not his real name) moved in and started paying rent for me. During the last week of our lease, that friend and three of his friends approached the landlord about starting a new lease. One week before the lease ended other prospective tenants inspected the house but turned it down because it was a "pig sty".

Anyway, the landlord agreed to begin a new tenancy with Mick and his friends. This fell through after four weeks and the house was then unrented for four weeks. The landlord's argument was that we lost good tenants because of the state of the house and he was pushed into accepting Mick and the others. He was claiming \$1,600 - for rent for the four weeks after the new tenants (Mick and the others) moved out.

My argument was that my liability ended the day the lease terminated and we vacated the premises. The Tribunal Member read both our submissions and heard both our arguments. He said that the law was very clear in this situation and that I was not responsible for any loss of tenancy.

However, the landlord was given leave to amend his application to the Tribunal to change the names of the tenants from mine and Pat's to Mick and the others'. Thus, he (the landlord) was claiming compensation from Mick and the others for the period the house was vacant after they left. The hearing

regarding this will occur later this month.

It wasn't until 4 months after the lease ended that I was finally free! My advice to anyone entering a lease would be:

- * Put every tenant's name on the lease - so the responsibility can be shared equally.
- * Know how the Residential Tenancies Tribunal works - the Tribunal video and Phillipa Bellemore's Tenants' Rights Manual were helpful here.
- * Prepare a concise submission to the Residential Tenancies Tribunal.
- * In the hearing, stay on the issues in the landlord's (or your) application for orders and don't be intimidated by the landlord or their agent.

The Tribunal is concerned with the written law and is not concerned with moral issues or personalities - the only power Members have lies with the written law, so make sure you get advice and use it.





TRIBUNAL CASES

Source: Residential Tenancies Update March '93 published by the Department of Housing Tenancy Service

1. Inspection Fees Prosecution

A Sydney estate agent was recently prosecuted by the NSW Tenancy Commissioner for charging tenants a \$30 'inspection fee' at the beginning of tenancies.

This is not one of the fees permitted by the Act. The agent was convicted on four charges and was fined a total of \$1,180 including costs. The maximum penalty allowed is \$2,000. How refreshing.

2. Rent Reduction - Hot Water

A tenant received a rent reduction because the hot water system was inadequate and asked that an adequate hot water system be installed.

The flat was rented for \$450/week as a luxury security flat suitable for six residents. However, the 125 litre hot water system constantly ran out and was not adequate for that number of people. The tenant considered a 400 litre system was required.

The Tribunal ordered that a 250 litre system be

installed as it considered that capacity to be adequate.

It also ordered a backdated \$50/week rent reduction to run until the new hot water system was installed.

3. Rent Reduction - Air conditioner

A tenant of a unit applied for an air conditioner to be repaired and compensation for being without the conditioner.

The landlord had argued it was the responsibility of the body corporate, but the Tribunal ordered the landlord to repair the air conditioner.

Furthermore, the Tribunal ordered a rent reduction of \$70/week while repairs were carried out and backdated this fourteen weeks (a total of \$980) to when the repairs should have been completed.

SHELTER GETS FUNDING

Shelter NSW was recently granted funding for six months by the NSW Department of Housing.

A worker will be employed to develop a strategic plan for Shelter's ongoing role as the peak community housing body in NSW, review its operations and develop its membership base and representation on its Board.

This is a very important and welcome development as Shelter has operated without Government support for four difficult years.

It is hoped that after the initial period Shelter will be able to negotiate for continued funding.

Congratulations to all concerned. If people would like more information they can contact John Nicolades on 267 7399.

LETTERS TO THE EDITOR

Dear Editor,

In NSW there are currently 174,467 empty houses (Bureau of Statistics). At the same time there are over 50,000 young people homeless in Australia (Burdekin Report, 1989). There is a 7 year waiting list for public housing. It is a great shame to find that many of these empty properties are owned by government and public organisations.

The University of Sydney currently owns a large number of vacant properties in Darlington, Camperdown and Glebe. Young people and students desperately in need of affordable accommodation have repeatedly approached the University to negotiate use of these residences. The University to date has ignored these requests and forcibly evicted and charged homeless people for living there.

If you walk down this street today you will see a huge vacant block with a few solitary houses on either end. These houses have recently received eviction notices from the University. Old people from the area tell of how the University has gradually taken over and divided the once bustling suburb of Darlington. There is a strong feeling within the community that the University must now become more responsible and accountable to the community, and give something back in the way of access to resources and housing rather than always taking.

One of the latest plans of the University, which has been a well kept secret, is to build an 'Advanced Technology Park' on the site of the old Everleigh Goods Yard in Redfern. This land was initially intended as public housing for 2,000 people. The Government seems to be once again ignoring the needs of the local community and putting profits before people.

A recent public meeting of local residents and students opposed the plans and called on the University of Sydney to make use of its existing vacant properties before it appropriates another large parcel of public land which is much needed for public housing, open space, parks and community facilities.

Monique Morrison
Newington Road, Enmore

NEW LETTERS PAGE

All Tenants' Union members and members of the public are invited to write letters to be printed in Tenant News. This is a chance for you to have your say about issues that concern you. Or to let everyone know about what's happening in your area.

Send letters to Tenant News c/- 68
Bettington Street, Millers Point 2000 or
Fax 02 252 1648.

Have your say.

CARAVAN NO-CAUSE EVICTIONS

The Park and Village Tenants' Association (PAVTA) has called for an immediate moratorium on 'no-cause' evictions until Section 58 of the Residential Tenancies Act can be amended to end the practice. This follows over 200 such evictions in the past two years that PAVTA is aware of and a controversial current no-cause eviction on the Central Coast.

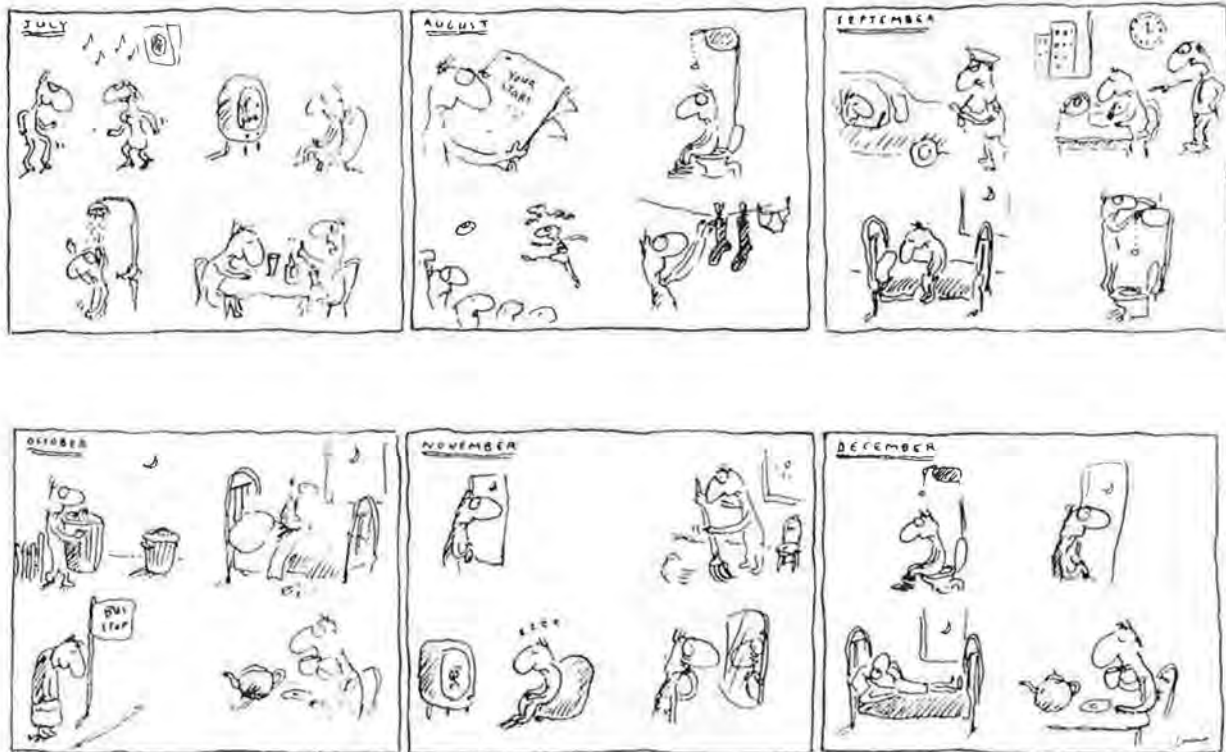
Executive Officer of the Association, Mr Kevin Audet, said recourse to the Tribunal was a farce while village management had the right to evict with no reason. We are not talking about a caravan, but two bedroom homes that require two low-loaders and a crane to move and a team of tradespeople to re-site at a cost of up to \$10,000.

In the current case a 60 year old woman was resisting her no-cause eviction because of the costs

and like many others she was encouraged to invest over \$50,000, unaware of the lack of security of tenure.

At the Tribunal hearing, the village manager was claiming \$1,700 before releasing the tenant's goods and was permitted to put all clothing, furniture and personal goods to auction.

After receiving notice of a no-cause eviction, tenants face serious hardship and have little power to negotiate. For Park and Village tenants Mr Audet observed, "This legislation should never have been introduced. The NSW Government should be ashamed of itself and a moratorium on all no-cause evictions should be placed immediately."



DEPARTMENT RESTRUCTURE

Hunter-New England Public Tenants' Council

Following an inquiry into the Department of Housing last year, the Department is to be restructured.

A part of this restructuring is a proposal to change the Regional Boundaries and, as a result of what is termed the "preferred option", there would only be seven Regions instead of the current eight.

Unfortunately for the tenants in the Hunter-New England Region, the Region as it is would cease to exist. The Region would be divided, resulting in the Hunter joining with the North Coast Region and New England becoming a part of the Orange Region.

While the Hunter-New England Public Tenants' Council can see many benefits from the proposed restructuring, the effects of this type of boundary change, coupled with a rumoured relocation of the Regional Office of the Department from Newcastle to Coffs Harbour, raises concerns and the Public Tenants' Council asks all public tenants in this Region to consider the implications.

Another change to directly effect Tenants is the move to have rent paid at Post Offices or by direct debit (rent payment automatically deducted from pensions/incomes at Banks/Building Societies) instead of being paid at local Department of Housing Offices.

This can benefit tenants, especially in country areas where there are no Department offices. However, we can also see problems with this change. Imagine the queues on Pension day in the Post Offices.

As well there is concern as to the type of receipt you would receive.

Unfortunately the change-over to payment of rent at post offices is not just proposed. As far as the policy makers are concerned this **will** commence from March, 1994.

While documentation on the restructuring suggests that there will be no office closures at this stage, and in the future the only changes will be to the actual area in which the office is situated, past experience with Government Departments offers no reassurance that we will not see the closure of local Department Offices, resulting in the loss of valuable services to tenants.

Firstly, the Public Tenants' Council feels that regional boundaries should remain as they are in country regions of NSW, with the only change being made in the metropolitan area where a new Region should be introduced, increasing the number of Regions in this area from three to four.

Secondly, the Public Tenants' Council feels that while the introduction of the availability for payment of rent at post offices is a good idea, this should be an **option** offered to Tenants and not compulsory, and being able to pay your rent at your local Department office should remain unchanged. This would then result in your choice as to where or how **you** wanted to make your rental payments.

People concerned about these changes are now writing to and approaching local Members of Parliament, the Minister of Housing and the Premier.



TECHNOLOGY PARK

Source: Anna Davis, Polly Porteous and Heidi Norman from the Cross-Campus Education Network

In 1990, Nick Greiner, then Premier of NSW, announced proposals for a "smart city" to be located on railway land in Redfern. This was to be a joint research complex combining industry product development with academic resources of the neighbouring universities (University of Sydney, University of New South Wales and University of Technology).

The plan currently has the financial support of \$11 million of so-called 'Better Cities' money from the Federal Budget, and a \$9 million grant of land from the State Government.

A feasibility study by KPMG Peat Marwick found that the Advanced Technology Park was not **financially viable** and recommended that the universities pursue other avenues of technology transfer. However, commitment to the idea of a science park ensured that a second feasibility study was demanded. The ensuing social impact study went to great lengths to bury the obvious community opposition by relegating negative comments to obscure passages near the end of the document.

At a poorly advertised community consultation meeting, residents voted overwhelmingly in favour of a five-year moratorium on the development.

The sole purpose of these science parks is to provide government-sponsored opportunities for private corporations to develop technology for the world market. Based on profit-oriented, free-market principles, the proposals are ill-considered given the marginal success rate of such science parks overseas.

***Locals will be forced out:** The ATP will attract high earning professionals, thus accelerating the gentrification process which has already forced rents up and working-class locals out. This area is one of the only pockets of cheap rental housing left in the inner-city. The marginalized Koori community of Redfern will be particularly vulnerable.

*** Profit rather than public housing:** The Eveleigh site was originally earmarked for public housing which had already begun on Henderson St. The project was subsequently abandoned because, as the Department of Housing explains, the ATP would "generate more income than a low income housing development".

*** Traffic and pollution will increase:** Many of the employees at the Technology Park will be executives, who traditionally prefer driving their cars to work over taking public transport. There will be an estimated increase of 880 extra vehicles per hour caused by the ATP.

*** Who will benefit?** Given the high-tech nature of the ATP it is very unlikely that it will provide any employment, services or flow-on benefits to a local community that is largely without academic qualifications. Even the universities themselves and their students will gain little benefit from the venture: who will own the technology - the students, the university, or the business?

*** Who will play in the Technology Park?** The names of the companies who will invest in the ATP and the exact nature of the research they will carry out has been consistently covered up. Calls for guidelines to prevent research and development that is ethically, environmentally or socially dangerous have been rejected.

Hawker de Havilland is just one of the big defence industry companies that are rumoured to be involved.

The alternatives: The 14 hectare Eveleigh site has great potential in terms of its proximity to the inner-city, its size, and its value. There have been many alternative proposals, including those from Koori groups and those concerned with public housing.

For more information on the ATP, including ways you could help, please contact Anna, Heidi or Polly on 660 5222, or George and Cass on 330 1155.

There will come a time
when sanity will all be
done by computers.



LOCKOUTS

A recent case at Western Sydney Tenants' Service reveals a loophole in the procedure a landlord must follow to recover possession of residential premises.

After obtaining an Order for Possession from the Tribunal, the landlord sought to enforce the order herself, threatening to change the locks to force the tenant out and claiming what is quaintly called a 'right to peaceable re-entry.' WESTS advised the landlord of legal remedies its client would have if force was used to lock them out and after consideration the landlord chose to approach the Sheriff's Office in the normal way.

However, legal opinion obtained was that while landlords clearly must have an order to regain possession, they need not have a warrant of possession enforced by a sheriff's officer.

In 1975, the authoritative Poverty Commission's second main report found there had been considerable temptation for a landlord who wished to recover possession of premises quickly to resort to self-help to bypass the need to get a court order and to have a Warrant of Possession executed. The Poverty Commission strongly argued that the right of peaceable re-entry be abolished.

In 1977, Labor minister Syd Einfeld introduced an amendment to the Landlord and Tenant Act, 1899 banning lockouts and made the point that:

"A landlord cannot predict whether or not his or her entry into premises is likely to produce a breach of the peace. By making it mandatory for a landlord to obtain an order for possession, therefore, the landlord need take no risk" (Hansard 11/'77 p10550).

This amendment came into force in 1978 and was carried into the new Residential Tenancies Act 1987 with stiffer penalties. Clearly Mr Einfeld believed he had abolished 'peaceable re-entry' in 1978.

The fact that this weakness in the RT Act '87 has only come to light after 15 years demonstrates that few landlords seek to use these methods, but use the Act as intended. WESTS believes that where a tenant has not vacated voluntarily, possession should be sought only by a sheriff's officer enforcing a warrant under Section 73(2) of the Act.

THE ALL-RUSSIA FUND FOR PROMOTION OF INDIVIDUAL FLATS

Source: IUT International Information 1/1993

The fund was founded in October 1991 specifically to defend the housing rights and interests of citizens living in communal flats in the centre of Moscow. A communal flat is a flat where several families live together. The fund's motto is: 'Communal flats - shame of Russia.'

The main aim of the fund is to deliver legal and organizational support to assist families to move from communal to separate or individual flats. Other aims are:

- * **The improvement of living conditions**
- * **The development and realization of plans concerning projects for the reconstruction of old parts of Moscow and other cities**
- * **To oppose the eviction of old inhabitants of Moscow from the city centre.**

The fund has its own proposals for the housing problems of the inhabitants of communal flats. These are:

1. A housing association to be established for each house.
2. Housing associations must buy their own house as a whole unit.
3. This housing association can reconstruct the house, let rooms and basements.
4. Housing associations within a neighbourhood to form a Neighbourhood Association to resolve neighbourhood problems.

The foundation does not ask for any financial support from the State. The housing associations want to own the property that can belong to them under the provisions of the new laws on privatisation. They seek complete autonomy and control of the projects relating to improving their living conditions.

Today more than 300 housing associations have been formed with the active assistance of the fund. It now has 11 branches in different cities throughout Russia. A housing credit bank has opened which provides credit at reduced rates to members involved in housing construction.

INTERNATIONAL TENANTS' DAY 1992 IN CANADA

Source: Barbara Hurd in IUT International Information 1/1993

October 5 is World Habitat Day and the International Union of Tenants has also designated the first Monday in October as International Tenants' Day to complement and highlight the concerns for housing and community development the Union shares with the United Nations Centre for Human Settlements.

What follows is a description of some of the activities sponsored by the United Tenants of Ontario in its first ever celebration of International Tenants' Day.

Ottawa: "We Dare You to Sleep in the Streets" was the challenge made to the public, politicians and the media by the Eastern Region of UTOO to get a taste of the kind of life that close to 17,000 homeless people in Ottawa endure every day.

One hundred and fifty people attended the concert on Parliament Hill that launched this action and 40 people stayed overnight in boxes and sleeping bags in the close to freezing weather.

This demonstration attracted wide television and newspaper coverage and the proponents have continued to sleep on Parliament Hill since October 5 to force recognition of homelessness as an important issue in this seemingly comfortable city. There are now growing indications that the City Government wants the removal of the boxes and tarpaulins that have been serving as home for these protestors for the last months, on the basis that the permit only allowed for temporary structures.



The demonstration was the catalyst for a new lobby group, the Ottawa-Carleton Homeless Coalition, which has produced a report on the issues of homelessness in Ottawa-Carleton and is applying for funding to build housing.

Toronto: International Tenants' Day was celebrated in a somewhat different fashion in Toronto. One hundred tenant activists gathered on International Tenants' Day at the Horseshoe Tavern to dance, raise a little money for the organization and promote tenants' rights.

Thunder Bay: A half day seminar on tenants' legal rights, how to organize a tenants' association and how Ontario's new Rent Control Act works was held at the Multicultural Centre in Thunder Bay. Representatives of UTOO, the Ministry of Housing, Shelter House and Kinnaaweya Legal Clinic presented a variety of viewpoints on tenant issues.

Kingston: A candlelight vigil was held in Confederation Square in front of City Hall on October 5. About 30 people listened to Kingston's Mayor, Helen Cooper, as she encouraged them to keep politicians informed of important tenant and housing issues. The group was addressed by representatives of two local shelters, Dawn House and Ryandale House, about their work with homeless people.

Petersborough: The Homeless Fair in Petersborough provided the opportunity for UTOO to set up a booth to promote tenants' rights and International Tenants' Day. The Fair also hosted the Petersborough Social Planning Council, the Housing Advisory Committee, Housing Resource Centre, STRIVE (assists youth returning to school), the Brock Mission and many other groups concerned about safe, secure and affordable housing.

A major feature of the Fair was the Homelessness Maze, where participants are confronted with difficult life challenges such as unemployment, separation, wife and child abuse, which cause the loss of home and security. The Maze takes you to shelters, the courts, the offices of welfare and housing providers and draughty rooming houses.

YES I want to join the Tenants' Union of NSW

Name _____

Address _____

Postcode _____

Telephone (h) _____ (w) _____

First language _____

Please tick

New membership Renewal

Are you a: Tenant Home Owner

Other (specify) _____

FEES

Membership runs from 1 January to 31 December. New members can pay half fees after 30 June. New membership fee includes cost of share(s).

YEARLY FEE

Tick the fee that applies

No (or low) wage/pension/benefit \$8

Waged worker \$15

Organisations \$30

Donation \$ _____

I enclose \$ _____

Signature _____

Date _____

Return to: Tenants Union, 68 Bettington Street
Millers Point 2000

OFFICE USE ONLY

Service Fee _____ Shares _____

Donation _____

Receipt No _____ Membership No _____

TENANT'S HOTLINE
251 6590
for advice and assistance
Monday to Friday 9.30am - 5.00pm

Get Your
Friends
to Join the
Tenants' Union!



SURFACE
MAIL

POSTAGE PAID
IN AUSTRALIA
IN AUSTRALIA
POSTAGE PAID

TENANT NEWS

TENANTS' UNION OF NSW CO-OP LTD,
68 BETTINGTON ST
MILLERS POINT NSW 2000

REGISTERED BY AUSTRALIA POST
PUBLICATION NUMBER NBH-2043