

tenant NEWS

The newsletter of the Tenants Union of NSW

No. 62 June 1998

Law reform urgent as more tenants rent longer

Trapped in the rental market

Increasing numbers of low income earners are now locked into the rental market and may never own their own homes says a recent report 'Social Polarisation and Housing Careers', by the Australian Institute of Family Studies. The report is backed up by recent Australian Bureau of Statistics findings that more Australians are renting and they are renting longer.

The Tenants Union has been aware of this trend for a number of years. Surely if increasing numbers of people are trapped into renting then it follows that current residential tenancies laws must change to give tenants some of the benefits that home owners enjoy, such as increased security of tenure and protection against unfair rent increases.

The rental market is not a stepping stone to home ownership as it had been in the past. Government policies of cheap, 'first home owner' loans, and the regulation of interest rates that have eased the road to home ownership no longer exist.

About 40 per cent of private tenants have paid rent for more than a decade, 'trapped ... by the weight of their rent payments and consequent inability to save the deposit for a house'. Dr Winter said, 'the proportion of low-income people

under 30 buying a home had halved since the 1970s'.

Home ownership rates have fallen to their lowest level since 1954.

'Home ownership is increasingly difficult to enter for low income young households, and fewer and fewer are doing it,' says Dr Ian Winter, of the Australian Institute of Family Studies in Melbourne. 'If low-paid workers had not entered home ownership by age 35, it was likely they would be locked out forever.'

Home ownership had been a key way to reduce income inequalities in the past.

In 1996, similar proportions of labourers and professionals were owner occupiers or property investors. And people from across the occupational and income spectrum were evenly represented among those paying off a home or renting privately by choice.

'Low-income people have always had access to home ownership since World War II,' Dr Winter said. 'But that has changed.'

Astute governments will recognise that tenants deserve better treatment. As the ranks of renters grow the pressure on government will increase. The Tenants' Union has consistently advocated for changes to residential tenancies law that give tenants greater protection. ■



What's Inside

Sharehousing not so simple!	2
Will Government protect tenants?	3
Dear Shirley...advice column	3
RENTWATCHERS	4
It's your home—defend it!	4
Ministers meet on housing money	5
Good News for services	5
New service for caravan park rights	6
Tenants find out their rights	6
Tenants solve disputes	7
Review of Residential Tenancies Act	7
Tenants Advice Services in NSW	8
Join the Tenants Union	8

FREE!

Welcome to Tenants News

The last four months have seen many changes in the Tenants' Union and the Tenants Advice services. We have two new staff members and welcome their excellent input into our organisation. Kelly Muirhead is the new solicitor and Ben Eagleton is database administrator and IT support person.

This year has already seen a lot of changes for tenants. We welcome the new minister, Jeff Shaw, Attorney-General. This is particularly important because there is a lot of activity around law reform at present. Apart from the long-awaited Boarders and lodgers legislation, there is a comprehensive review of tenancy legislation under 'National Competition Principles'. The current land tax issue has highlighted the need for better protection for unfair rent increases and the Union has proposed specific amendments to protect tenants from profiteering.

In addition to this, the TAAP network continues to grow with increased funds from the Rental Bond Board. We welcome two new services this year, one in the West of NSW and the other on the mid-North Coast. We look forward to reporting concrete gains from these initiatives in future issues.

Nicholas Warren, Chair

About the Tenants' Union

The Tenants' Union of NSW promotes the interests of tenants, including boarders and caravan park residents. Since 1976 we have fought for fairer laws and have worked to let tenants know about their rights. We welcome your involvement and membership. *Tenant News* is our regular publication.

Union Board:

Louise Buchanan	
Catherine Clayton	
Mary Duxson	
Mark Gibian	Secretary
Kylie Kilgour	
Nick Warren	Chairperson
David Vaile	
Rita Wilkinson	Treasurer
Emra Vukovic	
Damien Hennessy	
Mary Flakas	
Sarah Nielsen	
Angela Steward	

Union Staff:

Robert Clayton	Administrator
Kelly Muirhead	Solicitor
Fran Crittle	Co-ordinator
Gael Kennedy	Training/Resources
Zanne Landles	Access worker
David Ramsay	Policy/Publicity
Grant Arbuthnot	Legal Officer
Ben Eagleton	Database/IT support
Jackie Swinburne	NIS administrator

Edited by: Gael Kennedy

Layout: Gael Kennedy and Eddy Jokovich

Printed by Marrickville Printers
ISSN-1030-1054

The Tenants' Union
68 Bettington Street,
Millers Point NSW 2000.
Telephone: (02) 9247 3813
Fax: (02) 9252 1648
Email: tunsw@fl.asn.au

The views expressed herein do not necessarily reflect those of the editors, or Tenants' Union staff.

Sharehousing is not as simple as it seems!

'Sarah, Barbara and Jamil moved into a house together. They are all named on the agreement (lease). After six months, Jamil moves out and his friends, Geoff and Mia take over his room.

They pay Jamil his share of the bond. Not long after Sarah and Barbara decide to travel overseas and move out. Geoff's cousin and her friend move in ... then Mia and Geoff move out ... and so it goes on.

But no one has told the landlord or Rental Bond Board.

Another year goes by and a letter arrives for Sarah, Barbara and Jamil. No one's heard of them and the letter goes in the bin. It was a Notice of Termination from the landlord. Then comes a Notice of Hearing at the Tribunal and then a Notice of Orders of the Tribunal. Each letter goes in the bin.

The very first the current tenants hear about the termination notice is when the Sheriff arrives with the landlord and a locksmith to remove the occupants and change the locks.'

This is one of the worst case scenarios of things that can go wrong in sharehousing.

Juan and Monique lease a four-bedroom place. The advertise and Franco and Justine move into the spare bedrooms. Franco and Justine pay bond to Juan, plus rent and put in \$50 each a week for bills and food. Nobody bothers with receipts.

Soon after Justine decides she doesn't want to eat with the others, she's going on a special diet and stops paying her money into the kitty. Juan is annoyed with her. After three weeks he tells her to get out by the weekend because she owes him \$150 and

"There are enough sharehousing tenants in NSW to fill the SCG seven times over, and 4,000 people aged over 75 living in share housing."

1996 Census

refuses to give her bond back.

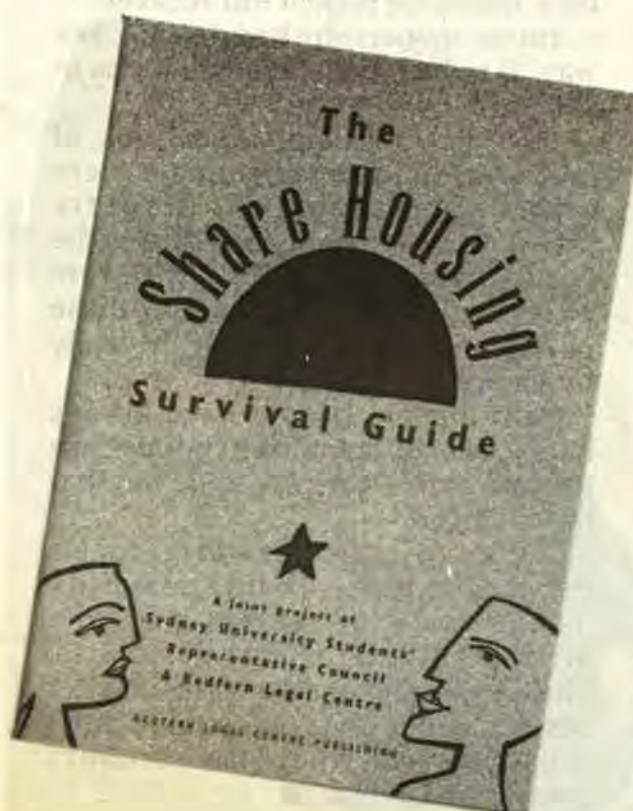
Sharehousing is full of problems. Changes of occupants. Loss of the bond because of lack of paper work. People being liable for rent and damage long after they have left the house. Sharehousing tenants often don't know their rights and or how to protect their interests. The *Residential Tenancies Act 1987* doesn't meet the needs of sharehousing tenants, or the reality of sharehousing situations. Sharehousing tenants need information and law reform.

New Report for Law Reform

The Tenants Union is about to release *The Fair Share*, a report on the future of share housing. This is based on a study and project on sharehousing by consultants, Jane Goddard and Stamatia Stamatelis. The report contains many recommendations for law reform and ideas for how sharehousing in NSW can be improved. This project is funded from interest on tenants bonds lodged with the Rental Bond Board.

The Sharehousing Survival Guide

A fantastic guide, that's essential reading for all sharehousing tenants has now been reprinted, thanks to funding from the Rental Bond Board. The *Share Housing Survival Guide* for NSW is now in its second edition and is FREE of charge from the Tenants Union and your local Tenants Advice Service. It is published by Redfern Legal Centre Publishing and was a joint project of the Student Representative Council of the University of Sydney and Redfern Legal Centre. ■



Will the NSW Government protect tenants?

By David Ramsay

Sydney tenants are currently being squeezed.

While landlord costs have been going down in recent times, particularly with spectacular drops in interest rates, the median rents for all dwellings in Sydney has increased by 5 per cent in the past year.

Now landlords are passing on land tax through rent increases to tenants as part of a real estate industry political campaign to avoid their tax liability. Many Landlords have also achieved spectacular capital gains over the past few years.

The Tenants' Union has analysed a number of Land Tax related rent increases and found that the rent increases are way beyond the actual landlord costs.

Pay up or get out

Tenants in NSW currently have little recourse—it is a case of pay up—or get out. Recent talking up of rents by the real estate industry has highlighted the weakness of current legislation.

Since the introduction of the *Residential Tenancies Act* in 1989 there have been only four documented instances where tenants living in the private rental market have successfully contested a rent increase at the Residential Tenancies Tribunal.

Tenants are caught between a rock and a hard place. Landlords enjoy the unfettered ability to increase rents. Few tenants have, or indeed can, contest rent hikes under the current law.

Tenants who wish to contest rent increases must jump through numerous hoops. They often lack access to the information needed to successfully contest rent increases. The onus of proof that a rent increase is excessive rests with the tenant, this onus must be reversed.

State Government inaction

The Tenants' Union have consistently called on State Governments of both political persuasions to protect tenants by giving them the tools to contest unfair and unjustified rent increases.

We have also made submissions to the current Legislative Council Standing Committee on Land Tax and has given verbal evidence at public hearings.

Many tenants in NSW believe the current state Government has let them down. The NSW government must act to tighten rent increase provisions within the Residential Tenancies Act. ■



Dear Shirley...

Shirley is everyone's confidant at the Tenants Union and when you are doing a Hotline roster you can be sure Shirley is there under the desk listening and offering support. Send your letters to Dear Shirley, Tenants Union 68 Bettington St Millers Point 2000

Dear Shirley,

I rent a fully furnished flat from a guy who's overseas for 12 months and when I took out the lease, (managed by a real estate agent) the flat had cable television which was on the agreement along with all the other furnishings and installations.

The other morning I was disturbed without any notice (undressing out of my frock from a post Mardi Gras party) at 7am by this Foxtel technician who said he had come to disconnect the cable box and discontinue the account at the direction of the real estate agent. I was just beside myself and didn't know what to do...he took away the cable (and left mumbling: 'filthy poofers')... and to make matters worse I have just been given 60 days notice to get out. I was hoping to be here for about another six months.

The agent said there was no real reason, just that it would be better if I found somewhere else. I always have my rent paid in advance, keep the place spotless and I am very quiet (I like to go out most nights and always creep in quietly with my sling backs in hand).

signed, Mel R. Place, Paddington

Dear Mel R. Place,

There seems to be four issues here.

The first is that you didn't get any notice that the technician was coming...tut tut...growl! This intrusion is a breach of the access term of your agreement (lease).

At 7am access is only available by, or for, the landlord in an emergency or with the consent of the tenant. Access is not available at all on Sunday unless it is an emergency or you have given consent. For repairs the landlord/agent needs to give two days notice. But, removal of the cable TV connection is not a repair, so access for that purpose needs your consent. Note also that the landlord/agent can inspect the premises up to four times a year if you are given seven days notice. Breach of the access term of the agreement is also a breach of the *Residential Tenancies Act 1987* and carries a maximum penalty of \$550.

The second issue is breach of quiet enjoyment. It's an interruption and an interference with your peace, comfort and privacy. Breach of quiet enjoyment is a breach of the agreement and of the Act and there's a penalty of \$550!!

Thirdly, your naughty agent has also breached the agreement by not maintaining the premises in reasonable condition—that's right—I mean the cable television connection is part of the premises. It's possible to apply the Residential Tenancies Tribunal for an order that the connection be restored and for a rent reduction order for 'withdrawal of goods, services or facilities'.

Now, what you must do is write to your agent, requesting that the cable connection be restored or that you may be prepared to negotiate a drop in rent because of the loss of that facility. You should also express your concern at the breach of privacy and access terms of the agreement by the technician.

The fourth issue is one of discrimination. If the wicked agent has issued you a 'no grounds' (60 day) termination notice because of your sexuality, then it is a breach of the Anti-discrimination Act. It is unlawful in NSW to discriminate in the provision of accommodation services based on sexuality.

You can inform the agent that you will not be leaving without an order from the Residential Tenancies Tribunal. If you do not leave based on the notice then the landlord/agent has 30 days to apply to the Tribunal, or the notice is no longer of any effect. It seems unlikely that the cable would be removed if the landlord is coming back early so the agent may opt for a quiet life and not bother applying to the Tribunal for termination and possession.

Then wait and see.

Now, the RTT can't deal with your discrimination complaint, so you should contact your local Community Legal Centre—they can help people who have been discriminated against unlawfully. They can help you with a complaint to the Anti Discrimination Board.

To get more help Mel R, you know you should always call the Tenants Union Hotline on (02) 9251 6590 or your closest Tenants Advice Service!

If all goes well, you should be still there come Sleaze.

Dear Shirli,

My landlord reckons he's selling the joint. He's putting it up for auction. I've been here about four years. I know I might have to leave but how much notice does he have to give me and what are me rights about people trampin' through the place.

Signed, I.T. Sucks, Peak Hill

Dear I.T. Sucks,

What a bummer. Now, if you were still in a fixed term agreement (lease) the landlord would not be able to evict you until the agreed period was up. If you are on a continuing agreement then he must give you 60 days notice **unless** the contract of sale of your joint states there must be vacant possession, then he only has to give you 30 days notice. The 30 day notice cannot be given before the contracts for sale has been exchanged, this is usually when the deposit is paid. The 30 day notice cannot be given after settlement of the contracts, when the rest of the price is paid and title passes to the new owner. After settlement the new landlord would have to give you 60 days notice to terminate the agreement without any grounds.

So make sure he keeps you informed of the progress of his sale and if any potential buyers look like they want to exchange contracts to buy the joint. And try and find out what the new owners want to do with the place. Do they want to keep tenants or do they want to move in?

About people trampin' through your joint: the landlord must give you reasonable notice that people will be coming to the place and must only come on a reasonable number of occasions. 'Reasonable' is a most elastic concept, so get in early to fix something acceptable to you. Try to negotiate particular times and duration for inspections. I suggest one hour early on a week day evening and one hour late on Saturday morning, for example. When you agree on a scheme of inspections put it in a letter to the landlord. Note also in the letter that the landlord is responsible for the conduct of people while they inspect the premises. Also, they can't hold the auction on the premises without your consent. (Mind you, if they do, you will be able to suss out what the new owners are going to do and make your plans as soon as possible.) Good luck.

RENTWATCHERS keep watching... ...stay tuned

RENTWATCHERS is a community coalition fighting for the protection of tenants, boarders and lodgers in the lead-up to the Olympic Games. We have been in operation for about a year, busy campaigning and lobbying, raising awareness of the issues surrounding the housing situation in NSW.

Rentwatchers Report

Thanks to great financial support Rentwatchers have contracted Strategy Matters, who are organising a publicity kit and the publication of the *Rentwatchers Report*, which is due for release very soon.

The *Rentwatchers Report* will be an alternative to the *Rent and Sales Report*, an overview of the rental and property market in NSW, published by the Department of Urban Affairs and Planning.

In contrast, the *Rentwatchers Report* will provide a more comprehensive picture of what is happening to rental rates, by providing a closer statistical analysis of the rental situation in the Olympic-affected areas.

Rentwatchers Report will also monitor the conversion of low income housing, homelessness and Government efforts to minimise the social impacts of the Olympics on Sydney's residents.

Changes to legislation

SEPP 10

We are eagerly awaiting the release of the amended State Environmental Planning Policy no.10 (SEPP 10) which was introduced in 1984 in an attempt to conserve low-cost rental accommodation in inner-Sydney. In March, Clover Moore MP wrote to the Minister, Craig Knowles, stressing the need to strengthen SEPP10 in the lead-up to the Olympics.

Unfortunately SEPP10 is not strong enough to stop boarding houses being knocked down or residents being evicted so that the building can be redeveloped for rental to a wealthier market. However, we hope that it will make local council think more before approving development applications which are likely to mean eviction for low-income residents.

Boarders and lodgers legislation

Parliament is considering a bill relating to the rights of boarders and lodgers. This bill provides minimum notice periods for termination which is an improvement on the current situation where residents can get evicted with virtually no notice at all.

However the bill provides very little else in the way of protection of boarders rights. In particular, it fails to provide boarders and lodgers with

access to the Residential Tenancies Tribunal for resolution of disputes.

There is a Boarders and Lodgers Action Group currently lobbying the Parliament for strengthening the bill.

Residential Tenancy Act

The Residential Tenancy legislation, along with all state legislation, is also under review, in relation to 'National Competition Principles'. Rentwatchers is putting together a submission to the Department of Fair Trading which will comment on the parts of the Act that deal directly with rent increases.

Rent increase cases

Despite the difficulties of running rent increase cases under the current legislation, a few brave tenants have decided to take their cases to the Residential Tenancies Tribunal. These should be heard soon and the results of these are awaited, as they go some way in challenging the indiscriminate rent rises that we are seeing within the Sydney metropolitan area.

Rentwatchers branches out

Rentwatchers will soon have their very own website to serve as a contact base for people wanting to join the campaign. Tenants from around the state will be able to visit the site and catch up on all the latest news. The website plans to include a divided map of Sydney, where rents will be charted, so people can get an up-to-date analysis of the current rental situation as it affects their particular area.

Rentwatchers also plans to set up local sub-branches, so that people can get involved in the campaign from a local perspective and can pass on information related to rent increases and boarding house closures occurring in their own area. ■

JOINING THE CAMPAIGN

If you are interested in getting involved or would like to pioneer a local Rentwatchers branch in your area, contact Mary or Beth on (02) 9698 7277.

It's your home—defend it!

What's wrong with the current law? NSW tenancy law needs urgent changes to protect tenants from unaffordable rent increases in the lead up to the Olympics.

The Tenants Union of NSW has already begun lobbying for changes, it is up to renters to let the politicians know how important these changes are.

- 1) That from 1998 until 2001, rents can not be increased more than once a year!
- 2) That rents can not be increased more than the increase in the consumer price index or 20 per cent of the rent, whichever is cheaper!

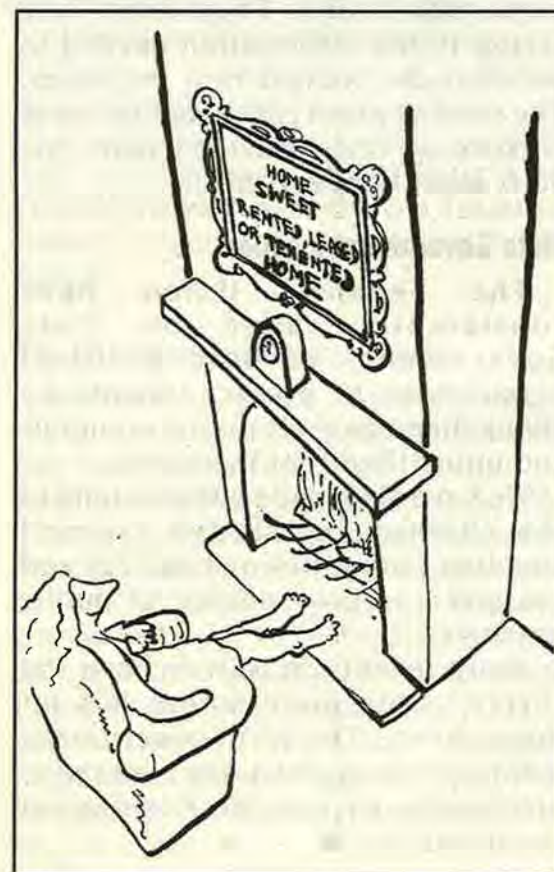
These changes to the law are essential to protect our homes from

Olympic Fever.

You have the right to continue to live in the area of your choice. It is unfair for renters to live in constant fear of having to move because of a rent increase.

What You Can Do

- Join the Tenants Union of NSW, phone (02) 9247 3813.
- Write to the Minister for Fair Trading, Faye Lo Po, Parliament House, Macquarie Street, Sydney.
- Send a copy of your letter to your Local Member of Parliament.
- Join a Rentwatchers group, or form your own. Contact Redfern Legal Centre on (02) 9698 7277 for details.



Ministers meet on future of housing money

Adapted from Report to Shelter NSW by David Ramsay

State and Territory housing ministers met with representatives of the Commonwealth government at the end of March in Sydney to discuss the future of the Commonwealth State Housing Agreement.

The Commonwealth State Housing Agreement sets the responsibilities and financial commitment of Commonwealth and State governments for public housing.

This was an interesting meeting, where, in the face of opposition, all States/Territories of mixed political persuasions presented a remarkably united front. The States and Territories were prepared to endorse the three principles previously presented by the

Commonwealth as a basis for funding:

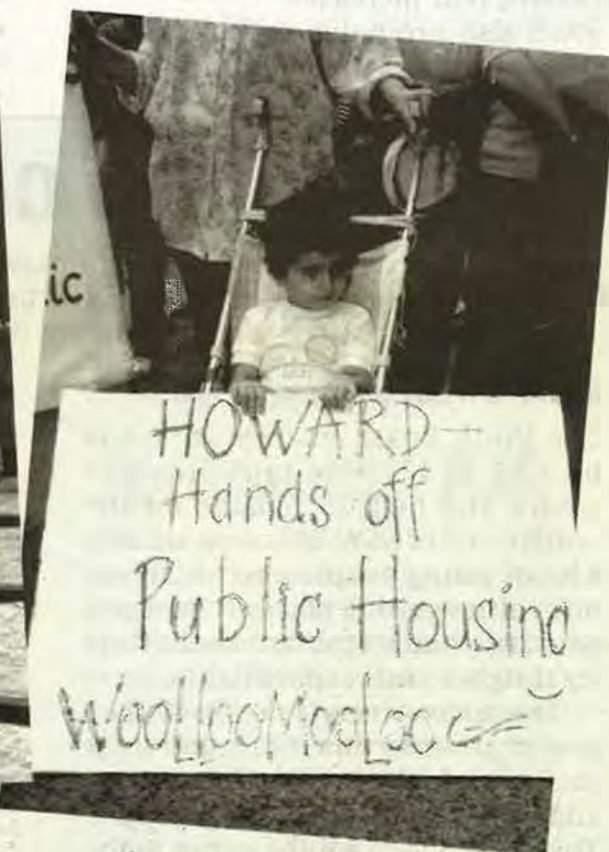
- The purpose of funding should be to assist those whose needs for appropriate housing cannot be met by the private rental market. The duration of assistance provided should be based on these needs.
- Housing assistance arrangements should be sufficiently flexible to reflect the diversity of situations which currently exist in the States and Territories and to assist in micro-economic reform
- Funding arrangements should promote efficient and cost-effective management, including longer term planning and alternative methods of housing Provision.

But that was all. Beyond this, the Housing Ministers were insistent on the Commonwealth presenting a firm dollar offer at least starting with current levels of money, have this and indexed and a five-year agreement.

However they received no such agreement from the Federal Minister. In a joint statement they said,

'Ministers expressed unanimous disappointment that after two years of negotiations the Commonwealth Government has not provided any offer for the future funding of public housing. In addition, the Commonwealth Minister could not agree to a satisfactory time frame to provide funding certainty to the States. This makes it impossible for the States and the Territories to continue to operate efficiently.'

They agreed that State and Territory Ministers will seek the support of their Premiers and Chief Ministers to request the Prime Minister to provide a firm offer with funding details by the end of June 1998. They also agreed to develop plans and then present a precise position to the Commonwealth on how funds are to be used. ■



Good News for Tenants Advice services

Tenants Advice and Advocacy Services (TAAP) and the Tenants Union are celebrating another boost in funding for their program after a decision by Rental Bond Board and Minister of Fair Trading in late 1997. The Minister announced additional staffing and resources for the program for the 1997-2000 funding period.

New services for tenants

All TAAP services across NSW had their funding increased to employ between 0.25 and full-time workers. Most exciting was the fact that the proposal to create additional services on the North Coast and Western NSW was successful. Christy Fry and Deirdre Dowsett of North Coast TAAP based at Lismore sent a fax of thanks and congratulations to the Tenants Union upon hearing the news.

More staff at the TU

The Tenants Union itself was successful in obtaining additional funding for a Systems Administrator for the TAAP, a Share Housing Research project, accreditation of Tenancy Law training and funds to employ an Information Admin Worker for the Union and TAAP.

Through the continued efforts and diligence of the Tenants Union and the TAAP services, since March 1997, the program has now received almost an additional 1.9 million dollars. ■

New service pushes for the rights of caravan park residents

By Harvey Volke and Di Evans

A new state-wide service has been set up to assist tenants advice services who are working with residents of caravan parks and manufactured housing estates.

The Park and Village Service

PAVS (The Park and Village Service) is now well established as a back-up and resource body giving specialist advice and support to tenancy workers across the state.

In recent months it has taken on a number of cases in the Residential Tenancies Tribunal involving major issues for caravan park residents. In one case park residents had no written agreements, in another there have been excessive rent increases.

PAVS also promotes park residents rights and runs community

information and education sessions around NSW.

Involvement in current issues

PAVS provides policy advice and information on key issues of concern. Current issues include:

- the review of legislation governing parks and estates. This is currently with the Minister for Fair Trading, and may involve substantial changes to the legislation.
- a recent test case at the Tribunal involving responsibility for payment

of power supplies which will present serious problems for many pensioner residents, and may be appealed.

- problems with on-site sales, local government issues, payment of charges for waste water disposal and so on.

New Specialist Workers

There are now specialist park workers based in several Tenants Advice Services who work specifically with caravan park residents. ■



Tenants find out their rights in new ways

Tenants Advice Services are using innovative strategies to reach out to tenants who don't know their rights. Besides traditional ways on giving out information, through leaflets, booklets, factsheets and information sessions there are a new range of creative strategies being developed that promote services and provide important information.

Movin' in video for young people

The North Coast tenancy service is located in Lismore and provides advice and help to tenants on the north coast of NSW. This area attracts a lot of young people who often face difficulties getting places to rent and who are usually ignorant about their legal rights and responsibilities.

The tenancy service realised they had to address this issue, and do it in a way which would be interesting and appropriate for young people. They talked with youth centres in the area and came up with the idea of making a video about tenancy law with young people so that the project would give them opportunities to learn whilst through being involved.

With the help of a local film-making group called 'Hatchlings' they employed actors from Byron Bay youth centres and produced a 20-minute video including information on various tenancy issues. It's called *Movin' In* and is aimed at young people between the ages of 17 and 21. Copies can be obtained by contacting the service on (02) 6622 3141.

Refugees learn English and tenancy law

The Illawarra tenants advice service is located on the south coast, near Wollongong. It's been

involved in an education project with the Adult Migrant Education Services (AMES) in the area, holding regular classes on 'starting a tenancy' with new arrivals, most of them refugees who have only been in the country for a few weeks.

As the weeks progress, there are sessions on 'repairs' and the students get practice with literacy by learning to 'write a letter to the landlord'.

The AMES teachers often prepare the classes beforehand, explaining words like 'landlord', 'anti-discrimination', 'condition report' for information sessions run by the tenancy service and then assist at the end of the session by explaining terms that students don't understand.

There were plans to take some of the advanced classes to the Residential Tenancies Tribunal however AMES has just lost a tender for the English classes for New Arrivals. So from June 1998 this mutually beneficial program will cease. A sad state indeed for new arrivals and the local migrant communities in the Illawarra.

Learning rights through Deaf Theatre

Last year the Hunter Tenants

Advice Service, together with the local Community Legal Centre ran a Deaf Rights Program, working in conjunction with the Deaf Society (Newcastle) and women from the local deaf community.

Consultations with deaf women began in March and continued on a regular basis until October/November, when a series of four workshops were conducted. The early focus of the consultations was to decide the legal issues that were most important to the women. Tenancy law was highlighted as one important area.

Drama skits were then developed to use as the basis for exploring the key issues. Each workshop contained at least four visual presentations as well as discussion and question time.

The program was developed, scripted and acted by the initial consultation group. The skits were drafted by a solicitor or tenants' worker and then 'auslanned' by the rest of the group. Throughout the project an Auslan (Australian Sign Language) interpreter was employed.

It proved to be a highly effective educational tool and allowed for an exchange of skills for everybody involved. ■

Tenants can solve disputes at the Tribunal

by Damien Hennessey

The place is falling down around your ears. You have made a dozen phone calls to the agent and written twice. Still nothing.

It's time you went to the Residential Tenancies Tribunal!

The Tribunal is like a tenancy court, set up solely to deal with problems between tenants and landlords. It's usually not too formal, but like a court you can get a hearing and have your dispute decided according to the law.

When faced with a problem, a lot of tenants will put off taking this extra step, of going to the Tribunal. Why should you have to go to the trouble of making an application to the Tribunal when you're in the right? Well, you shouldn't have to, but sometimes it's the only thing you can do to make your landlord or agent keep their side of the bargain.

To go to the Tribunal you will need to fill in an application form—you can get one from the Department of Fair Trading's Renting Service, your local Tenants' Advice and Advocacy Service (TAAS), or if you're feeling bold, a real estate agent. The form can be a little tricky, and you can ring your local TAAS for help. It costs \$20 to make an application (\$10 if you get a government pension or benefit) and usually that's the only cost involved in going to the Tribunal. You will usually represent yourself, so there are no solicitor's costs or legal fees.

You should get a hearing in about two or three weeks, a little longer if you live outside Sydney. If you have not been to the Tribunal before, it's a good idea to go beforehand to have a look around perhaps even watch a hearing. Chances are your landlord or agent will know the ropes—why should they have an unfair advantage?

Remember that you will have to try and reach an agreement with your landlord or agent at the Tribunal before you have a hearing. Sometimes your hearing will have to be on another day, especially if you need witnesses. Before you go to the Tribunal get advice on your application and case, and work out the kind of settlement you would be happy with—the things you can compromise on and the other stuff that is not negotiable.

If you can't reach an agreement, it's on to a hearing. In the hearing you will get a chance to have your say (and so will your landlord or agent), and present the issues and your evidence. This is where good preparation helps. Then a Tribunal Member will make a decision based on the facts that are presented according to law.

Agents and landlords may want you to think otherwise, but tenants have rights. A residential tenancy agreement is a two-way thing—you have responsibilities and obligations, but so do they. If they're not keeping to their side of the deal, in the end you might have to go to the Tribunal. That's your right and unfortunately occasionally it's something you just have to do.

Tribunal Dos and Don'ts

Do

- Try and sort it out before you go to the Tribunal—there are lots of other ways to resolve your dispute.
- Prepare a list of everything that has happened and when it happened in order and/or a submission—it helps you and the Tribunal member.
- Bring all your documents, even the ones you think aren't important.
- Get there in plenty of time—don't rush in 20 minutes late and flustered.
- Take a friend or flatmate for support—it's OK to be nervous!

Don't

- Not attend—things that will affect you may be decided even if you're not there. If it is your application and you change your mind, write a letter to the Tribunal telling them.
- Be bullied into a settlement you're not happy with, either by your landlord, agent or the Tribunal.
- Lose your cool—it will never help your case.
- Pretend you understand what is happening when you don't—don't be scared to ask questions.

Tribunal Case study

Elvira rented a townhouse for almost three years and had always kept it very clean. She was very surprised then to learn that the agent wanted to take more than \$1000 from her bond after she left. Elvira made a claim for her bond at the Rental Bond Board which was disputed by the agent. The agent went to the Residential Tenancies Tribunal.

Elvira got advice from her local TAAS, who helped her prepare for the hearing. At the Tribunal she felt under a lot of pressure to settle the matter. Elvira offered to pay the agent \$200, but this was rejected. The agent would not settle for less than \$800. Elvira felt the Tribunal conciliator wanted her to accept this amount, but she held firm and proceeded to a hearing.

The Tribunal member listened to



both sides and then made a decision. She decided that although the agent failed to prove most of their claim, Elvira did owe some money for water and minor cleaning. The member ordered that \$80 be deducted from the bond for the agent, with the balance to be refunded to Elvira. ■

Competition Review of Residential Tenancies Act

By the year 2000, all legislation that restricts competition in Australia will be reviewed in relation to National Competition Principles (NCP). The laws regulating landlords and tenants has been identified as restricting competition. The Residential Tenancies Act and associated legislation is currently being reviewed.

NCP seek to remove uncompetitive restrictions on markets where they outweigh public benefit or are in the public interest.

The Tenants' Union will argue strongly that Residential Tenancies legislation is in the public interest while highlighting areas for reform.

There may be opportunity, within the context of this review, to use competition arguments in relation to the ability of tenants to contest unfair rent increases. Current rent increase provisions are uncompetitive in that there is little opportunity for tenant to contest a rent hike—only a handful of tenants have been able to successfully contest rent increases in the ten year history of the Residential Tenancies Act.

The Tenants Union will keep readers posted on the progress of this important review. ■

Tenants Have Rights!

How to avoid problems

- ☒ Start by reading your residential tenancy agreement. Get some help if you can't understand it.
- ☒ Tell your landlord, or the landlord's agent, about any problems and tell them what you want. You should confirm anything you agree to in writing and to send your landlord a copy.
- ☒ Remember that the agent works for the landlord.
- ☒ Keep a written record of what happens between you and your landlord or agent, including what each of you said and when.
- ☒ Keep copies of your:
 - Residential Tenancy Agreement
 - Condition Report
 - receipts for rent and bond money
 - all letters and written records.
- ☒ Never sign a blank form or any papers you don't understand.
- ☒ If you receive notice of a Tribunal hearing you should always attend.
- ☒ Remember that if you stop paying rent you can be asked to leave. Rent strikes do not work.

For more help

Contact your local Tenants Advice and Advocacy Service. Workers will be happy to call you back if you live out of the area.

Inner Sydney
02 9698 5975

Inner Western Sydney
02 9559 2899

Southern Sydney TAAS
02 9787 4679

South West Sydney
02 9601 6577

Eastern Suburbs Tenants Service
02 9386 9147

Western Sydney Tenants service
02 9891 6377

Northern Sydney
02 9964 9654

Central Coast TAAS
02 4353 5515

Hunter TAAS
02 4929 6888

Illawarra/South coast
02 4274 3475

North Coast TAAS
1800 649 135

North Western NSW
1800 642 609

South Western NSW
1800 642 609

Aged Tenants Service
1800 451 488

Aboriginal Services

Western NSW
1800 810 233

Southern NSW
1800 672 185

Northern NSW
1800 248 913

Greater Sydney
02 9690 0020

Your landlord can't evict you—only the Residential Tenancies Tribunal can do this.

Tenants' Union Hotline
Ph: (02) 9251 6590

Phone advice:
Mon-Fri 9.30am-1pm and 2-5pm

Get a new lease on life... join the Tenants' Union!

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

