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**TEMPORARY TRANSFER OF  
MANAGER OF TENANCIES**

Scott Lanyon, the long term Manager of Tenancies, has accepted a temporary (at this stage) transfer to the Department of Local Government, Housing and Sport as Deputy Director, Government Employee Housing and Tenancy Support. Geoff Gaskell, currently Manager, Client Services, has taken up the functions of the Manager of Tenancies position and is available, with other staff of the Tenancy Unit, to assist agents, landlords and tenants with queries.

**AFFIDAVIT OF SERVICE**

It has come to the attention of the Commissioner of Tenancies when conducting inquiries that the Affidavit of Service that is required to be completed when providing an RT03 'Notice by Landlord to Tenant to Remedy Breach of Agreement – Unpaid Rent' is not being correctly or in some cases fully completed by some landlords/agents.

It is important that:

1. The affidavit is signed, posted and dated by the person identified on the affidavit.
2. The form must be marked 'A' or Annex A as required by the affidavit.

Failure to correctly complete and follow all requirements of the affidavit may result in the Application to the Commissioner being dismissed at inquiry.

**REPAIRS AND MAINTENANCE**

The first Tenancy Topics in March 2005 identified a worrying increase in the level of inquiry to this office from tenants experiencing difficulties in getting landlords to effect repairs to rental properties, and there has been no noticeable decrease in the level of such inquiries since.

Unfortunately, when there are lengthy delays in making repairs, some tenants take matters into their own hands and try and force the landlord into action by ceasing to pay rent. This quite often leads to the landlord giving the tenant a notice to remedy breach, and then if the rent is not paid by the due date, applying for an order for termination, possession and compensation from this office.

Over recent months there have been numerous tenants attend possession hearings before the Commissioner and advise that the only reason they stopped paying rent was because they are sick and tired of reporting repairs and maintenance to the landlord and/or the agent and nothing being done.

Landlords should recognise that although tenants have responsibilities under the Residential Tenancies Act to advise of required repairs, landlords also have obligations to make prompt repairs so that tenants have enjoyment of the premises.

**APPLICATIONS TO THE COMMISSIONER  
FOR POSSESSION & COMPENSATION**

A high number of applications are withdrawn by landlords/agents prior to inquiry because of errors in calculations of rent payments due. As always, if there are any concerns with filling out forms and documents in relation to legislative requirements, the Commissioner of Tenancies office is available to assist.

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## RETENTION OF SECURITY DEPOSIT WHEN PREMISES ABANDONED

Some instances of landlords and agents not complying with the requirements of Section 112 of the RTA that deals with distribution of security deposits and compensation when tenants abandon premises have come to our attention. It should be noted that applications to the Commissioner of Tenancies to determine the distribution of security deposits or claim compensation must be made **within 3 months** from the date when the tenant apparently abandoned the premises or the claim cannot be considered.

The tenant is then entitled to as much of the security deposit as the landlord continued to hold on trust for the tenant.

Section 112(6) of the Act says that if in the opinion of the landlord, the tenant has abandoned the premises, the landlord may continue to hold on trust for the tenant as much of the security deposit as is necessary to ensure that the deposit will be available for payment to the landlord in accordance with section 122 as compensation for loss of rent and loss caused to the landlord in securing new tenants for the premises.

Section 112(8) states:

*'The landlord is not entitled to claim under section 122 part or all of the amount of the loss referred to in subsection (6) unless –*

*(a) the Commissioner receives an application to determine the distribution of the tenant's deposit; or*

*(b) the loss is claimed under section 122,*

*as soon as practicable after the loss can be calculated, and in any case within 3 months from the date on which the tenant apparently abandoned the premises.'*

## SEARCHING TENANCY DETERMINATIONS MADE EASY

The Consumer and Business Affairs website [www.caba.nt.gov.au](http://www.caba.nt.gov.au) has just been updated to allow landlords, agents and tenants to more readily access Determinations of the Commissioner of Tenancies in relation to applications that have been dealt with by the Commissioner's delegates over past years.

Determinations can be accessed from the Residential Tenancies category under the Consumer heading and clicking on the phrase 'A key word search from all Determinations'.

For example a landlord interested in Determinations that include a reference to 'carpet cleaning' would enter those as key words, click 'Submit' and 3 Determinations can then be accessed by clicking on the links.

## RESIDENTIAL TENANCY AGREEMENTS MUST COMPLY WITH THE RTA

Landlords and agents should be aware of Section 20 of the RTA that requires residential tenancy agreements to comply with the Act. Section 20(4) states:

*'A landlord must not enter into an agreement or arrangement -*

*(a) to exclude, modify or restrict the operation of this Act (directly or indirectly); or*

*(b) that purports to exclude, modify or restrict the operation of this Act (directly or indirectly).*

*Penalty: 100 penalty units'*

Agreements in use by landlords and agents may be reviewed at any time for compliance with the Act. Any claims against tenants that rely on conditions in agreements that do not comply with the Act may not be considered if the matter proceeds to an inquiry.

**For your free copy of the booklet  
'A Guide to Renting in the Northern Territory'  
produced by Consumer Affairs for Tenants and Landlords  
call 1800 019 319**