



Media Release
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'For Immediate Release'

State Government forgets most vulnerable in share housing with new *Residential Tenancies Bill* passed last night

As rents go up and housing affordability declines, more and more people are turning to share housing to help make ends meet, with many of them becoming sub-tenants. However, the *Residential Tenancies Bill 2010*, passed in parliament on Thursday night, means that sub-tenants, who are often international students and people on low incomes, are left unprotected when there is a dispute over a bond or an eviction.

Redfern Legal Centre runs the Inner Sydney Tenants' Advice & Advocacy Service and also has solicitors at University of Sydney Students' Representative Council, Post-Graduates Association and at TAFE, and often deals with cases where students are left out in the cold because of unscrupulous head tenants.

"We already see many cases where head-tenants attempt to evict their sub-tenants with little or no notice and keep their bonds. But we have always been successful in either negotiating an outcome for our clients or assisting them to apply to the Consumer, Trader and Tenancy Tribunal to resolve their dispute. This will no longer be the case as under the *Bill* it will be up to head-tenants to decide whether they want to opt into the Act or not by providing a written residential tenancy agreement. In most cases, people will not do this," said Ms Swinburne, Coordinator of the Tenants' Service at Redfern Legal Centre.

The new *Residential Tenancies Bill 2010*, does make significant improvements for co-tenants (where both tenants are named on the Tenancy Agreement), giving them a clear procedure for moving out, ending their liability and resolving bond disputes. It also gives them the right to apply to the Tribunal to resolve these types of disputes. This only underscores the fact that sub-tenants will lose this protection they currently enjoy.

"In excluding sub-tenants from the Bill and the Tribunal, the State Government is putting these people in the same category as boarders and lodgers. Currently New South Wales and Western Australia are the only States without any legislative provisions for boarders and lodgers so it is very disappointing to see this category of people expanded," said Ms Swinburne.

Tanya Vavilova is a sub-tenant living in Glebe. When we explained how the new laws will affect her she was astounded. "I have lived in many share housing arrangements in my time as a student and we have never had a written agreement between the tenants. You don't even think to research the law until a dispute arises. I can't believe that now I won't be able to go to the Tribunal if I am suddenly evicted or my head-tenant refuses to give my bond back", she said.

The Inner Sydney Tenants' Advice & Advocacy Service, situated within Redfern Legal Centre, has long had expertise in the area of share housing, both in advising their clients, and in producing the *Share Housing Survival Guide* which can be accessed at www.rlc.org.au/sharehousing.

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Background information

What this means for share housing tenants:

Currently, in a standard share house arrangement, with one person per room, it is often the case that one or more people are not named on the lease. The longer the share house runs for, with people coming and going (with permission of the landlord), the more likely there will be residents who are not on the lease.

Under the current Act the person named on the lease is the head-tenant and the other occupiers are sub-tenants. This means that between themselves, they have a landlord / tenant relationship. The sub-tenant has to pay their bond to the head-tenant and where there is a dispute, or the head-tenant wants to evict the sub-tenant, they can take their matter to the Consumer, Trader & Tenancy Tribunal.

The new Bill is a welcome change for co-tenants (ie, both named on the lease) who now have a clear procedure for moving out, getting their bond back and taking any disputes to the Tribunal. This is a huge and positive change for share housing.

But it is now the sub-tenants in the above scenario that will be cut out of any protections of the Bill, leaving them with no clear procedures for eviction or claiming back their bond.

To show the absurdity of this you only need to look at how the law currently works for boarders and lodgers. For a sub-tenant (without a written agreement with their head-tenant) under the new Bill, to claim your bond back you would need to apply to the Local Court. To prevent an unreasonable eviction you would have no option but to apply to the Supreme Court for an injunction. With costs starting at \$750, excluding legal representation, this is not a viable option for people in share housing.

Further to this, the new law will not give any protection to head-tenants either. Unless they opt into the Act (taking on all the obligations of landlords), they will also be left vulnerable. There will be no set process for notices of termination on either side. As such sub-tenants can walk out of the share house at any time with no notice and their liability will end, leaving the head-tenant to foot the rent bill.

We have asked the government to enact legislation to resolve issues between co-tenants for a long time. It is great that this will form a part of the new Bill. Now a new issue has been created with the absurd exemption of sub-tenants from the Bill. What this means is that legislation covering boarders and lodgers is now needed more than ever before.