

# Tenancy Databases: Information for Tenants in Queensland

Tenancy databases collect information about the tenancy history of tenants. They are used by real estate agents and lessors to screen tenants and to manage tenancies. There are now laws in Queensland that set out how real estate agents and lessors can use tenancy databases. A person can only be listed for specific reasons. Tenants whose listings do not meet the new laws can challenge them. But there are timeframes for doing this, so it is important to act sooner rather than later.

## Who Can be Listed on a Tenancy Database?

You can only be listed on a database if you were a tenant and the tenancy agreement has ended.

A tenant is someone who was named on the tenancy agreement. Other occupants, visitors or children cannot be listed as they are not on the agreement.

## Reasons a Tenant Can Be Listed

### Three Reasons for Listing

A real estate agent or lessor can only list you on a tenancy database for one of three reasons.

#### *1. Money Owing*

1. The amount of money owing must be more than the rental bond. You must also:

- have received a Notice to Remedy Breach about the rent owing; or

- failed to pay money owing under a conciliation agreement or a court order; or

- abandoned the premises

### ***2. Objectionable Behaviour***

2. You can be listed for objectionable behaviour, provided the Small Claims Tribunal ended the tenancy on this basis.

### ***3. Repeated Breaches***

3. You can be listed for repeated breaches of the Residential Tenancies Act, provided the Small Claims Tribunal ended the tenancy on this basis.

If your listing does not meet these criteria, or it is inaccurate or unjust, you can take action to have it removed.

## **Knowing about a Listing**

A real estate agent or lessor must write to you to let you know about a proposed listing (or take other reasonable steps). They must give you a reasonable chance to consider this information.

# What Listings Should be Removed?

You can take action to have a database listing removed if:

1. it is unlawful. This means the listing is not for one of the three reasons opposite; or
  2. the listing is inaccurate or unjust.
- 

## Examples of Listings that are unlawful

- A person living in the property is listed, but they were not on the tenancy agreement.
  - A tenant left owing some money to the lessor and was listed. However the rental bond was enough to cover the amount owing, so the lessor did not lose any money.
- 

## Examples of Listings that may be unjust

- A tenant who had been in hospital for some time and fell behind with the rent.
  - A tenant left the property to escape from domestic violence. Their co-tenant/former partner was responsible for damage that occurred after they left.
- 

## Example of a Listing that is inaccurate

- A tenant is listed as owing \$1,300. The correct amount is \$100.

## Timeframes for Removing a Listing

---

### Act quickly ...

If a database listing is not for one of the three reasons opposite, you can ask for it to be removed. This request must be made within certain timeframes.

- If the database listing took place before the 1st August, 2003 you must start your legal action before 1st August, 2004.
- If the listing occurred after 1st August 2003, you have six months from the time you became aware of the listing to start legal action.

Legal action means filing an application with the Small Claims Tribunal.

There is no time limit if the listing is inaccurate or unjust, even if the listing is for one of the three reasons opposite.

## What to Do if an Agent is Planning to List You

A real estate agent or lessor can only list you on a tenancy database for specific reasons (see opposite).

An agent must take reasonable steps to advise you that they plan to list you. This will usually mean that the agent will write to let you know of the possible listing and give you a reasonable time in which to respond.

You have three options if a real estate agent tells you that they plan to list you on a tenancy database.

1. Negotiate with the agent threatening to list and try to reach agreement; or
2. Contact the dispute resolution service provided by the Residential Tenancies Authority. To do this you will need to fill in a Dispute Resolution Request (Form 16); or
3. Apply to Small Claims Tribunal for an order to stop the agent making the listing. If the Small Claims Tribunal finds in your favour and the agent does not comply with the order, the agent can be fined. Advise the Residential Tenancies Authority if this occurs.

If the matter is urgent and you believe the listing will be unlawful, inaccurate or unjust, it might be better to go straight to the Small Claims Tribunal rather than the RTA.

You should act immediately as getting a listing removed may take much longer than stopping a listing being made in the first place.

### ***Tips about negotiating with the Agent to stop the listing***

- Make notes about what you want to say to the agent before speaking.
- Take someone with you to any meetings.
- Stick to the facts, without becoming personal.
- Clearly state what you want; (for example, if you pay a certain amount the agent will not list you).

If you reach agreement, write a letter to the agent confirming the arrangements between you. Keep a copy.

# Steps for Removing a Listing

---

## **If you think your listing is unlawful, inaccurate or unjust**

### *1. Find out the details of the listing.*

Find out the name and address of the real estate agent or lessor who made the listing, and the reason for listing. Once you know this, move to Step 2.

Sometimes it is difficult to get this information. This is because:

- you may be unsure which real estate agent made the listing; or
- the real estate agent will not tell you why you were listed; or
- there are no records about your listing; or
- the real estate agent has gone out of business.

If you cannot get information about why you were listed, you will need to contact the database direct to find out the reason for listing (some databases may charge to provide this information).

If the agent has gone out of business the listing should be removed by the database. Write a letter to the database saying that the agent is no longer in business and asking for the listing to be removed (a tenancy advice worker can provide help with this letter if you need it).

If the tenancy database refuses to remove your listing, you can complain to the Privacy Commissioner. It is usually best to get legal advice about this. Free legal advice can be obtained from some of the organisations listed on the back of this brochure. The contact details for the Privacy Commissioner are also included.

### *2. Decide whether the listing is un lawful, inaccurate or unjust.*

You can only be listed on a database for specific reasons.

If the reason for your listing is not for one of the three reasons set out in this brochure, or the listing is inaccurate or unjust, you can ask the real estate agent or lessor to remove or amend it on the database. There are strict timeframes for you to do this (see Timeframes for Removing a Listing on the front of this brochure).

*3. Write to the Agent and ask them to remove the listing.*

It is usually best to write to the agent concerned asking them to remove the listing, rather than just talk to the agent over the phone or face-to-face. Make sure you keep a copy of the letter. (A tenancy advice worker can help with this letter if you need it.)

If the Agent does not remove the listing move to Step 4.

*4. Contact either the Residential Tenancies Authority or the Small Claims Tribunal for help in removing the listing.*

If the agent refuses to remove your listing on the database, you can either:

- lodge a Dispute Resolution Request with the Residential Tenancies Authority (RTA Form 16) and ask for dispute resolution; or
- apply direct to the Small Claims Tribunal for an order that the listing be removed. (A tenancy advice worker can help you complete this application.)

If you apply to the Small Claims Tribunal, you will need a written copy of the database record as evidence of the listing - you may need to contact the database to obtain this information (some database companies charge to provide this information).

*5. If the Agent does not do what the Small Claims Tribunal says, complain to the Residential Tenancies Authority.*

If the Agent does not do what was ordered by the Small Claims Tribunal about the listing the agent can be prosecuted. They may be fined up to \$3,750 together with a fine of \$375 for each day the offence continues.

## Useful Contacts

---

Tenants' Union of Queensland Advice Line (9 am - 4 pm)

Phone: 07 3257 1108 or 1800 177 761 [www.tuq.org.au](http://www.tuq.org.au)

Tenancy Advice and Advocacy Services are located around the State. Check under "T" in your local white pages.

Legal Aid Queensland

Phone: 1300 65 11 88 [www.legalaid.qld.gov.au](http://www.legalaid.qld.gov.au)

Residential Tenancies Authority

Phone: 1300 366 311 [www.rta.qld.gov.au](http://www.rta.qld.gov.au)

Office of the Federal Privacy Commissioner

Phone: 1300 363 992 [www.privacy.gov.au](http://www.privacy.gov.au)

### **Disclaimer**

The information in this brochure is based primarily on the *Residential Tenancies and Other Legislation Amendments Act 2000*. This legislation takes precedence over this brochure, should there be any inconsistencies.