



Tenants' Union  
of Queensland Inc

# Tenancy databases



Tenancy databases hold information about the tenancy history of tenants. They are used by real estate agents and lessors to decide a tenant's suitability when assessing tenancy applications. In Queensland, the *Residential Tenancies and Rooming Accommodation Act 2008* ('the Act') sets out rules that real estate agents and lessors must follow when listing a tenant and describes the steps a tenant can take to dispute a database listing.

## What is a tenancy database?

Tenancy databases hold information about tenants relating to their tenancy history.

Tenancy databases are sometimes referred to as 'blacklists' or 'bad tenant databases'. If your name is listed on a tenancy database, you may find it difficult to rent a property.

Real estate agents and lessors may be members of one or more tenancy databases. In Queensland many agents are members of the TICA Default Tenancy Control Pty. Ltd.

As a member of a tenancy database a lessor or agent can list tenants on the database and can check the database to see if prospective tenants have been listed by a previous lessor or agent.

In Queensland the Act includes rules that agents or lessors must follow if they want to list a tenant on a tenancy database. The Act also sets out steps a tenant can take to dispute a database listing that does not meet the requirements of the Act.

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## Quick facts

- Tenancy databases are regulated under Queensland tenancy laws.
- The Act sets out rules that lessors and agents must follow when they list a tenant.
- Tenants can only be listed for a reason allowed under the Act.
- Tenants must be notified of proposed listings.
- Tenants can only be listed after the tenancy has ended.
- Only tenants named on the agreement can be listed.
- Tenants can apply to the Tribunal to dispute a proposed database listing, or an existing listing, if the listing does not meet the requirements of the Act.
- Tenants can also apply to the Tribunal to dispute listings that are incorrect or unjust.
- The Tribunal can order the lessor or agent to take steps to remove a listing.

## Your consent

When you apply for a rental property, the agent or lessor must obtain your consent before they can check your references and rental history. Your tenancy application will usually include a section that you must sign giving the agent or lessor permission to check your rental history on a tenancy database. The lessor or agent is unlikely to agree to a tenancy if you do not give permission for them to check your rental history.

## What is on a listing?

When the agent or lessor uses a database to see if your name is listed a record of this check may be recorded on an 'enquiries' list on the database. This is a record the agent has checked your rental history and will not usually affect your ability to rent. This is not the same as being listed on the tenant 'history' database.

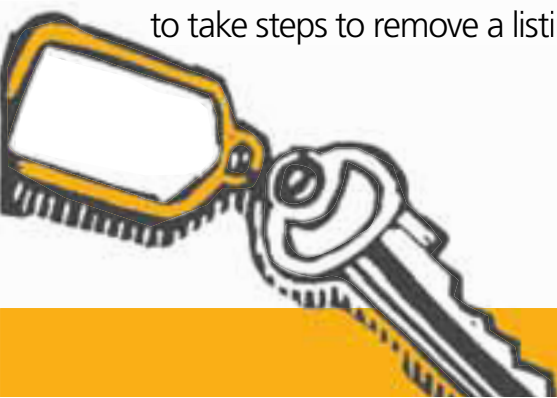
In Queensland a listing on the tenant 'history' database, indicates a tenancy default is alleged by the listing member. This listing will include your name, the listing date and contact details for the member that made the listing. A listing on the 'history' database is likely to affect your ability to rent a property.

**Tenancy Facts** are published by the Tenants' Union of Queensland to assist tenants and residents. Tenancy Facts are available from your local tenant advice service, or online at [www.tuq.org.au](http://www.tuq.org.au)

**Who's who?** A **lessor** is the person who gives a **tenant** the 'right to occupy' a residential premises under the Act. Lessors often employ real estate **agents** to work on their behalf. A **provider** is a person who provides rooming accommodation to **residents**.

**The Residential Tenancies Authority** (RTA) is the government authority that oversees tenancy laws in Queensland. Tenancy forms are available from the RTA, online at [www.rta.qld.gov.au](http://www.rta.qld.gov.au) or from tenant advice services. Some forms are available at the post office.

**The Tribunal** refers to the Queensland Civil and Administrative Tribunal (QCAT), which hears tenancy disputes. To find your local Tribunal visit [www.qcat.qld.gov.au](http://www.qcat.qld.gov.au) or call QCAT on 1300 753 228.



## Who can be listed?

In Queensland, the use of tenancy databases is regulated by the Act. The Act sets out lawful reasons a tenant can be listed and rules that lessors and agents must follow if they want to list a tenant on a tenancy database.

When listing a tenant on a database, the lessor or agent must:

- Take reasonable steps to notify you about the proposed listing and the information they intend to record; and
- Give you a reasonable opportunity to review the proposed listing.

In Queensland, you can be listed on a tenancy database if:

- The tenancy has ended; and
- You were named as a tenant on the tenancy agreement (other occupants, visitors or children cannot be listed as they were not on the agreement); and
- There is a lawful reason for the listing under the Act; and
- The listing person has taken reasonable steps to notify you about the proposed listing.

## Reasons you can be listed

The Act sets out three reasons why an agent or lessor can list a tenant on a database. If your listing is not for one of these reasons, or if it is inaccurate or unjust, you can take action to have the listing removed.

### 1. Money owing

You can be listed if you leave owing money at the end of the tenancy and the amount is more than any rental bond held by the RTA and/or a tenancy guarantee. You must also have:

- Received a Notice to Remedy Breach about rent owing which you did not comply with; or
- Failed to pay money by the due date stated under a conciliation agreement or Tribunal order; or
- Abandoned the premises.

### 2. Objectionable behaviour

You can be listed if the Tribunal made an order to end your tenancy due to your objectionable behaviour.

### 3. Repeated breaches

You can be listed if the Tribunal made an order to end your tenancy due to your repeated breaches of the Act.

## Steps to remove a listing

### 1. Find out about the listing

Find out the name and address of the real estate agent or lessor who made the listing, and the reason for the listing. Sometimes, it can be difficult to get this information because you are unsure who made the listing or the listing agent is no longer in business.

You may need to contact the tenancy database company directly to obtain details of your listing. In Queensland, many real estate agents use the TICA Default Tenancy Control Pty Ltd database. Contact details for TICA are listed in this Tenancy Facts.

If the listing agent is no longer in business and there is no evidence to justify the listing, you can write to the database company and request removal of your listing. If the listing is not removed you can apply to the Tribunal for an order. Your application should name both the listing agent and database company as respondents.

### 2. Is the listing unlawful, inaccurate or unjust?

Contact the agent or lessor to obtain details of the listing. Ask the agent or lessor for a copy of any evidence they have to justify the listing. If the agent or lessor has listed you for a reason not covered by the Act, this is an unlawful listing. You can request the removal of a listing that is unlawful, inaccurate or unjust.

### 3. Ask that the listing be removed

You can ask the agent or lessor to immediately remove the listing if it does not comply with the Act or if they do not have evidence to justify the listing. It is usually best to write to the agent or lessor and ask them to remove the listing, rather than just talk to them over the phone or face-to-face. Make sure that you keep a copy of the letter. If the agent does not remove the listing, move to Step 4.

### 4. Apply to the Tribunal to remove the listing

If the agent or lessor refuses to remove an unlawful or unjust listing, you can apply to the Tribunal for an urgent hearing and seek an order that the listing agent and database operator remove your details from the database. In many cases the agent and database operator will only remove a listing if you obtain an order for removal from the Tribunal.

### 5. If the Tribunal order is not complied with

If the agent or lessor who listed you does not follow a Tribunal order to remove your listing from the database, it is a serious offence. You can make a complaint to the RTA, who can investigate the matter. The listing agent can be fined for this offence.

*If you need assistance to apply to the Tribunal or fill out the form contact your local tenant advice service.*

## Disputing a database listing

An application to the Tribunal for a tenancy database listing to be removed is an urgent application. Tribunal application forms are available at [www.qcat.qld.gov.au](http://www.qcat.qld.gov.au)

When applying to the Tribunal it is useful to have a copy of your listing and evidence to dispute the listing. Before the hearing you may apply to the RTA Dispute Resolution Service to try to resolve the dispute but this is not a requirement.

You can apply to the Tribunal to dispute a proposed listing or an existing database listing under the following sections of the Act:

### Proposed listing (section 462)

If you are notified about a proposed listing on a tenancy database and you believe the listing would be unlawful or unjust, you can apply to the Tribunal for an order that the listing not be made.

### Breach of listing rules (section 460)

If a listing is in breach of the allowed reasons for listings set out in the Act, you can apply to the Tribunal for an order that the listing be removed. You must lodge your application with the Tribunal within six months of becoming aware of the listing.

### Incorrect or unjust listing (section 461)

If the listing is inaccurate or unjust in the circumstances, you can apply to the Tribunal for an order that the listing be removed. You will need evidence to support your case. There is no time limit to apply to the Tribunal to dispute incorrect or unjust listings.

The Tribunal will take into account the reason for the listing, and:

- whether you were responsible for the acts or omissions that led to the listing.
- the adverse consequences that you have suffered, or are likely to suffer as a result of the listing.
- any other relevant matter (such as the circumstances that led to the listing).

### Examples of listings that are unlawful

- A person who lived in the premises is listed, but they were not named on the tenancy agreement.
- A tenant left owing some money but the rental bond was enough to cover the amount owing.

### Examples of listings that may be unjust

- A tenant was in hospital and fell behind with the rent.
- A tenant left the property to escape from domestic violence and their former partner was responsible for damage after they left.

### Example of a listing that is inaccurate

- A tenant is listed as owing a debt for the tenancy, but no Notice to Remedy Breach was issued for rent arrears and there is no Tribunal order or conciliation agreement as evidence of the debt.

## How to contact TICA

When disputing a database listing it is useful to have a copy of your listing as evidence of who listed you and when. If you apply to the Tribunal to dispute a listing you should name both the listing agent and the tenancy database company as respondents.

In Queensland, many real estate agents and lessors are members of TICA Default Tenancy Control Pty Ltd.

When you contact TICA and request details of your listing, you will need to provide identifying information including:

- Your full name
- Your date of birth
- Your drivers' licence number, or passport number (except Australian Passport), or proof of age card, or another individual identifier.

### Mail request

If you write to TICA to request a copy of your listing you will need to provide your identifying information and include a stamped self addressed envelope (if you do not provide this TICA will not send information back to you). You must also include either:

- A bank cheque or postal order for the \$14.30 access fee made out to TICA (TICA will post information to you within 10 days); or
- A specific written request for free access to your information (TICA may take 28 days to post this information to you).

### Fax request

You can request information via fax. A fax request form is on the TICA website. You will need to pay a \$22 fee using a credit card. The name on the credit card must be one of the search names.

### Phone enquiry

If you phone TICA you will need to provide your details and the phone number you are calling from. Telephone enquiries are charged at over \$5 per minute.

A telephone enquiry can be very costly and will not provide you with a copy of your listing, which you may need if you apply to the Tribunal to dispute your listing.

### TICA contact details

TICA Default Tenancy Control Pty Ltd  
PO Box 120 Concord NSW 2137

**Website:** [www.tica.com.au](http://www.tica.com.au)

**Telephone:** 190 222 0346 (as at December 2009, charged at \$5.45 per minute; more from mobile or pay phones).

To obtain a copy of your listing, it is best to mail or fax your request to TICA and request a print-out of your listing.

## Applying to the Tribunal

A QCAT Application for Minor Civil Dispute - Residential Tenancy Dispute form is available online at [www.qcat.qld.gov.au](http://www.qcat.qld.gov.au) or from your local courthouse.

When applying to the Tribunal it is useful to have a copy of your database listing as evidence of who listed you and when you were listed. It is also useful to have evidence to support your case.

On your Tribunal application, you are the applicant. Your first respondent is the agent or lessor who listed you on the database. The second respondent is the database company (e.g: TICA Default Tenancy Control Pty Ltd).

Naming both the listing agent and the database company as respondents ensures the Tribunal will send both a copy of any Tribunal order to remove the listing.

On the application tick the appropriate box to indicate the section of the Act you are applying under. Lodge copies of your completed application at the Tribunal closest to the rental premises, or at the QCAT registry at 259 Queen Street, Brisbane. A filing fee of \$20 will apply. The Tribunal will send you a letter to notify you of the date, time and location of your hearing.

If you are disputing a proposed listing your application can request an order that the lessor or agent not list you on a database.

If you are disputing an existing listing your application can request an order that the listing person remove your details from the database. You can also ask the Tribunal to order that the listing person write to you to confirm when the listing is removed.

## Time limits

When disputing a listing be aware that time limits may apply to lodge your application in the Tribunal.

If you are disputing a listing because it is in breach of the allowed listing reasons, you must apply to the Tribunal within six months of becoming aware of your listing.

There is no time limit to apply to the Tribunal to dispute incorrect or unjust listing.

### Tenancy Facts

The Tenants' Union of Queensland provides information and advice to tenants about their rights and responsibilities under the Act. Information produced by the Tenants' Union is available in print and online at [www.tuq.org.au](http://www.tuq.org.au)

#### Tenancy Facts include:

1. Renting in Queensland
2. Starting a tenancy
3. Rental bonds
4. Rent and other charges
5. Entry and privacy
6. Repairs and maintenance
7. You want to leave
8. Lessor ends the tenancy
9. Resolving tenancy disputes
10. Tenancy databases

## Further help

### Tenants' Union of Queensland

The Tenants' Union is a statewide organisation that provides free advice services, and represents the interests of tenants and residents in Queensland. The Tenants' Union aims to improve and protect the rights of all people who rent their home. [www.tuq.org.au](http://www.tuq.org.au)

### Tenant advice service

**Statewide:** 1300 744 263  
9am–4pm Mon–Fri and till 7pm Tue and Wed

**Fraser Coast:** 9am–1pm Mon–Fri

**North Qld:** 2pm–5pm Tue and Thur

*(Note: Tenants calling from Fraser Coast or North Queensland will be put through to those offices during listed advice hours)*

*The Tenants' Union of Queensland is an independent community organisation funded under the Department of Communities TAAS Program from interest on tenant bond money managed by the RTA. The Tenants' Union acknowledges RTA funding for this project.*

### Tenant Advice and Advocacy Services (TAAS)

Tenants and residents can contact their local TAAS service for tenancy advice, advocacy and support. Look under 'T' in the phone book for your local TAAS.

### Residential Tenancies Authority (RTA)

The RTA is the government authority that oversees renting laws in Queensland. The RTA provides information and services for tenants, lessors, agents, providers and residents. RTA forms are available from Australia Post Offices, online at [www.rta.qld.gov.au](http://www.rta.qld.gov.au) or Ph: **1300 366 311**

### Translating and Interpreting Service (TIS)

If you need an interpreter to speak with a tenant advice service call TIS Ph: **131 450**

