

Strengthen provisions for Compensation in the recovery of Lessor expenses in excess of the Rental Bond

While S362 of the *Residential Tenancies and Rooming Accommodation Act 2008*, sets out an existing provision (“Duty to mitigate loss or expense”) in the current legislation, recovery of Compensation claims via QCAT can be problematic. Lessors/Property owners need a greater assurance that they will not be forced to outlay the costs of repairs, rent arrears and other related expenses where the likelihood of recovery remains problematic.

Where Lessors/Property owners have exhausted all legitimate avenues for the recovery of costs, there should be a strengthened regulatory provision available that would enhance prospects for recovery of Compensation claims via QCAT. This has been an aspect of the legislation that has failed to receive adequate scrutiny to date, resulting in generally instances of unfavourable outcomes for Lessors/Property Owners.

While it may be an aspect that has received relatively little public exposure, it still remains worthy of attention.

I would therefore advocate that the relevant Government Agencies recognise the need to strengthen the evidentiary requirement (including provision of relevant supporting media) to support the legal (QCAT) process for the recovery of expenses in excess of the rental bond. Additional provisions may allow Tribunal referees to endorse the listing on tenancy databases for amounts exceeding the value of Rental Bond thresholds by five to ten–folds to remain within their jurisdiction.

Strengthening this aspect of the current legislation would act as a proportionate deterrent to tenants responsible for the instances of serious damage to property and/or financial loss wholly borne by Lessor/Property Owner.

Enshrining minimum evidentiary requirements to substantiate the quantum of loss within the limits of legal jurisdiction would enhance this regulatory provision.

To give this Submission some relevance to my own experience as a Lessor, I would add that while these instances have been infrequent occurring at around 2 -3 times in thirty years, they nonetheless have had a significant financial, “out-of-pocket” impact on providing rental accommodation which I was unable to fully recover/offset through an increase in rent.

Lessors/Property owners in the private rental accommodation market who continue to operate in good faith to act with diligence in response to approving suitable tenants are reluctant to have their stake-holdings in the industry under-mined by incidences of failure to be fully compensated for costs in excess of the rental bond.

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