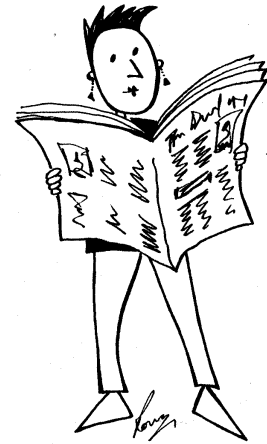


## 1.01 Glossary

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- Adjourn** To put off or suspend (the court hearing) until a later date or indefinitely, usually at the discretion of the Court. Either party can ask for an adjournment.
- Agent** A person who represents or acts on behalf of another. The agent may enter into agreements on behalf of another to the extent authorised and need not be a registered agent. An agent is not usually personally liable. See *Real Estate Agent*.
- Agreement** See *Residential Tenancy Agreement*.
- Applicant** The person who applies for a hearing to resolve a dispute under the *Residential Tenancies Act 1987 (WA)* in the Magistrates Court.
- Assign** To transfer rights, interests and responsibilities under a tenancy agreement to another person.
- Bailiff** See *Sheriff*.
- Boarding** A right to occupy premises where the owner retains overall control of the premises. The owner may control who enters the property and what services (such as meals, room cleaning) may be provided to the boarder.
- Body Corporate** The owners of a strata titled block of flats or units, who join together to manage the common grounds and the building under the *Strata Titles Act 1985 (WA)*. The body corporate may set rules controlling the use of the premises. Also known as a *Strata Company*.
- Bond** Money payable by the tenant to the owner when moving into premises as security for the performance of obligations under a residential tenancy agreement. Also known as a *Security Bond*. The amount is generally equal to 4 weeks rent plus \$100 for pets.
- Bond Administrator** The chief executive officer of the Department of Commerce. Security bond money can be paid directly to the Bond Administrator.
- Bond Disposal Form** Abbreviated name for *Joint Application for Disposal of Security Bond* (Form 4). The form used to authorise the release of the security bond money. Both the tenant and the



	owner/agent are required to complete all sections on the form before signing it.
<b>Breach</b>	Non-compliance with, or breaking a term or condition of, the tenancy agreement or the <i>Residential Tenancies Act</i> . For example, doing something which the agreement or Act says you can not do, or not doing something which the agreement or Act says you must do.
<b>Chattel</b>	Movable or personal good(s) or property (e.g. furniture, gardening equipment, curtains etc).
<b>Conciliation Conference</b>	See <u><i>Pre-trial Conference</i></u> .
<b>Compensation</b>	Money paid for damage or loss caused by any breach of the tenancy agreement.
<b>Condition</b>	A particular kind of term of the tenancy agreement. For example, the tenant will have the carpets professionally cleaned at the end of the tenancy.
<b>Consent Order</b>	A Court order which both parties have voluntarily agreed to abide by. For example, when the tenant and the owner come to an agreement before the Court hearing, the parties can tell the Court what they have agreed to, and the Court will make a consent order binding both parties.
<b>Co-tenant</b>	A joint tenant with equal legal responsibilities, resulting from the tenant having jointly signed the tenancy agreement. The <i>Residential Tenancies Act 1987 (WA)</i> does not cover disputes between co-tenants.
<b>Cross Examine</b>	The questioning of a witness by the party who did not call that witness during a court hearing. Leading questions are allowed as long as they are relevant to the issue in dispute.

#### **Department of Commerce**

The WA State Government department responsible for the administration of the *Residential Tenancies Act 1987 (WA)*. These include providing information and advice, investigation, negotiation, conciliation and prosecution functions.

#### **Department of Housing**

DoH provides rental accommodation for individuals or families on low to moderate incomes or to those who have special housing needs. Accommodation is subsidised so as to ensure that DoH tenants do not pay more than 25 per cent of their income in rent.

#### **Discrimination**

Where a person is treated less favourably than another person, in the same or similar circumstances; because of their sex, race or other characteristics as specified by state and federal laws. The *Equal Opportunity Act 1984* is the WA state law. The *Human Rights and Equal Opportunity Commission Act 1986* is the Commonwealth law that establishes the Commission administering the *Sex Discrimination Act 1984*, the *Racial Discrimination Act 1975* and the *Disability Discrimination Act 1992*

<b>Eviction</b>	A process through the Court to have tenants expelled or removed from the rented premises. Evictions can be enforced by a bailiff of the Court.
<b>Fair Wear and Tear</b>	Includes the wear and damage to a property that you would reasonably expect to occur through everyday living in a property. It may involve damage done through ordinary use by someone taking reasonable care but not due to abuse or neglect.
<b>Fixed Term Tenancy</b>	A tenancy agreement for a specific period of time (e.g. 12 months). It has a definite start and finish date.
<b>Fixtures</b>	Things which are accessories to the property (such as, built-in book shelves). To be a fixture a thing must not be a part of the house (e.g. walls) but it must at least be affixed to the building, not merely in contact with it. For example, light fittings are usually fixtures, paintings are usually not.
<b>Grounds</b>	Reasons upon which legal rights and responsibilities are based.
<b>Head Tenant</b>	A person who signs a <i>tenancy agreement</i> and then <i>sub-lets</i> rooms to one or more other people (see <u><i>sub-tenants</i></u> ). Another tenancy agreement is effectively created between the head tenant and the sub-tenant, with the head tenant taking on the role of the owner for the purposes of this agreement.
<b>Illegal Eviction</b>	Entering into the premises <i>without a Court Order</i> for the purpose of removing the tenant from the premises. Under the <i>Residential Tenancies Act 1987 (WA)</i> , illegal evictions may carry a penalty of up to \$4000.
<b>Landlord / Landlady</b>	The owner of the premises which have been rented out under a <i>residential tenancy agreement</i> .
<b>Licensee</b>	The general difference between a tenant and “licensee” is that a tenant has an exclusive right to occupy, whereas a licensee does not. For example, a person who stays in a hotel room pays money for the right to occupy a room but is not a tenant. Such a person is referred to legally as a “licensee” rather than as a “tenant” and do not have the same rights as a tenant.
<b>Lodging</b>	A right to occupy premises where the owner retains control over the premises. The owner may control who has the right to enter the property and may provide services such as cleaning the room or making the bed. Unlike a boarder, a lodger will usually not receive meals.
<b>Magistrate</b>	A person given the power under the <i>Residential Tenancies Act 1987 (WA)</i> to hear tenancy disputes in the minor cases of the Magistrates Court.

**Magistrates Court** The Court where parties apply to have residential tenancy disputes resolved by a Magistrate.

**Maintenance** The upkeep and regular repairs done on a property to keep it in reasonable condition and in good working order.

**Notice of Breach of Agreement**

A notice in writing stating that a term or condition of the tenancy agreement has been broken, and saying the problem must be fixed within a specified time in accordance with the *Residential Tenancies Act 1987 (WA)*. There are two forms which can be used by the owner: one is for *general breaches* and the other for *rent arrears*. However, neither the owner nor tenant need to use particular forms as a breach notice may be in the form of a letter.

**Notice of Termination (by Owner)**

A notice in writing from the owner to tell the tenant that the owner wants them to move out. It must be written in the prescribed form and be in accordance with the Residential Tenancies Act 1987 (WA). It is the wording, not the colour of the form which is prescribed. There are three different notices of termination of agreement which are used according to the circumstances: *Form 1A*, *Form 1B* and *Form 1C*.

**Option Fee** A fee charged to the tenant when their application for tenancy is being considered. If the tenant is accepted and decides to move in, the money is kept by the owner/agent as part of rent paid for in advance. If the tenant is not accepted, it must be refunded to the tenant. If the tenant decides not to move in the owner/agent may keep the option fee. The option fee cannot be more than one week's rent.

**Order** An enforceable decision made by the Court. The order usually says what the tenant and/or the owner has to do, or how much money one has to pay the other.

**Owner** The person who gives another the exclusive right to occupy premises under a *residential tenancy agreement*, or any successor of that person (such as a purchaser of the property) who takes the property being rented by of the tenant.

**Owner's Leasing Fee** A fee which may be charged to an owner by a real estate agent. The fee covers the costs involved in finding a tenant for the owner's property (such as, advertising). This fee is not charged to the tenant at the commencement of the agreement. If the tenant breaks a fixed term tenancy agreement, a proportion of the leasing fee *may* be passed on to them (as a loss the owner suffers).

**Parties (to an Agreement)**

The people who have entered into a tenancy agreement.

**Periodic Tenancy** A tenancy agreement for a period of time (e.g. a week, fortnight or month) which renews itself automatically at the end of each period. It has a start date but no defined finish date.

**Prescribed Forms** These are forms with a specified format as set out in the *Residential Tenancies Regulations 1989 (WA)* which must be used in accordance with the *Residential Tenancies Act 1987 (WA)*. They must be written in the prescribed form. It is the wording, not the colour of the form which is prescribed.

**Pre-trial Conference** A meeting between the owner and tenant with an official from the Court who tries to assist the parties to come to an agreement. It usually takes place just before the Court hearing and the discussions cannot be referred to in subsequent Court proceedings. It may also be called a *Conciliation Conference* in the Magistrates Court.

### **Property Condition Report**

A report documenting the state of the property and its contents/fixtures. The report should be done by the tenant when they first move in. It is best for the report to be detailed, listing everything in the property, including all walls, windows and floor coverings, and a brief description of their condition. The condition of the gardens and yards should also be included in the report.

### **Property Seizure and Delivery Order**

An order issued by the court giving the bailiff/sheriff authority to enter the owner's premises and handover "vacant possession" to the owner, ie, evict any people in the premises. Possession must be made during the hours of 9am and 4pm. The order is valid for twelve months and is dated one day after the court order is made (ss 102 and 103 *Civil Judgments Enforcement Act 2004 (WA)*).

### **Property Seizure and Sale Order**

An order issued by the court giving the bailiff/sheriff authority to seize and sell goods to satisfy the judgment debt of one of the parties. (s59 *Civil Judgments Enforcement Act 2004 (WA)*)

**Provisions** Legal or formal statements setting out rights and obligations within the *Residential Tenancies Act 1987 (WA)*. May also be known as sections.

**Real Estate Agent** A person employed by the owner to manage the rental property on behalf of the owner. See *Agent*.

### **Real Estate Institute of Western Australia (REIWA)**

The member organisation of real estate agents in Western Australia.

**Registrar** A person who is given the power, under the *Residential Tenancies Act 1987 (WA)*, to hear some tenancy matters in the Magistrates Court where the matter is not disputed or a party does not appear.

**Rent** A payment under a residential tenancy agreement by the tenant to the owner for the right to live in the premises.

**Rent Arrears** When a tenant has not made the rental payment by the due date as specified by their *residential tenancy agreement*.

**Rental Accommodation Fund (RAF)**

An account with the Treasury, administered by the Department of Commerce. It holds the interest earned on private, residential tenants' bond money.

**Residential Premises** Any premises or part of premises intended for use as a place of residence. The yard may be included as part of the premises, unless otherwise agreed.

**Residential Tenancy Agreement**

Any agreement, whether written, verbal or implied under which a person gives to another person the right to occupy residential premises (exclusively or otherwise) for the purpose of a residence in exchange for valuable consideration (e.g. rent or labour).

**Respondent** The person given notice by the Court that an application to the Court has been made against them. The notice informs them that the applicant has asked the Court to make an order concerning the dispute, and that they can attend to give their side of the story.

**Retaliatory Eviction** Where the owner tries to end the tenancy agreement partly because the tenant had complained to a public authority or taken steps to enforce their rights as a tenant.

**Security Bond** See Bond.

**The Sheriff** Once an eviction order has been obtained and the tenant remains at the property, the owner may proceed to have a Property Seizure and Delivery Order issued by the Magistrates Court pursuant to s 95 and 96 *Civil Judgments Enforcement Act 2004* (WA) . This order has effect for 12months after the day on which it is made or issued and during this time the Bailiff/Sheriff is authorised to remove any persons on the property, change the locks on the property, and secure any other access points.

**Strata Company** See Body Corporate.

**Squatter** A person who occupies another's premises without ever having been given permission to do so. A squatter has no rights as a tenant in WA.

**Sub-let** A *residential tenancy agreement* whereby the tenant rents out all or part of the premises (such as a bedroom) to another person, and therefore takes on the legal role of the *owner (head tenant)* for the purpose of that residential tenancy.

**Sub-tenant** The tenant in a sub-let arrangement. S/he has a *residential tenancy agreement* with the *head tenant*, not with the *owner* of the property.

**Summons** A demand that you must appear in Court. For tenants, this will usually be the Magistrates Court.

**Tenancy Agreement** See Residential Tenancy Agreement.

**Tenancy Bond Account**

An account held in the name of the owner and the tenant and lodged with a financial institution (e.g. bank or building society) or the bond administrator. The account is for holding tenants' bond money during the tenancy.

**Tenancy Bond Trust Account**

An account with a prescribed financial institution (e.g. a bank or building society) where the Real Estate Agent keeps all their tenants' bond monies in trust, together in one account.

**Tenant** The person who is liable to pay (rent money or otherwise) under a *residential tenancy agreement*, and has the right to occupy the premises.

**Term** May refer to either a period of time (e.g. a fixed "term" of 6 months); or to a condition of a tenancy agreement.

**Trespass** Unlawful entry onto land or into premises.