

1.04 Department of Housing Tenants

The Department of Housing (DH) provides subsidised rental accommodation for individuals and families on low to moderate incomes. Subsidies are designed to ensure that DH tenants do not pay more than 25 per cent of their income in rent.

Special programs are also available to assist those with special housing needs. This includes priority assistance for people in extreme need of housing and housing programs for people with disabilities, Aboriginals, youth and other low income groups.

The Department owns some 39,000 rental properties, making them the largest landlord in Western Australia.

Are DH tenants covered by the Residential Tenancies Act?

Yes! DH tenants are covered by the Residential Tenancies Act (1987) WA. DH also has rental and maintenance policies which it should follow when managing its tenancies.

These policies are available on the DH website: www.housing.wa.gov.au(.)

DH has been given exemption from three sections of the Residential Tenancies Act. These provisions are set out in the Residential Tenancies Act Regulations (1989) WA, s.5(B). They are:

- **Rent increases:**
DH does not have to give tenants 60 days notice to increase the rent, as the rent is based on tenants' income and changes if their income changes. This does not apply to some DH tenants who are paying market rent as a term of the tenancy agreement;
- **Rent receipts:**
DH is not required to provide rent receipts in accordance with the Act. However, they are required to keep a record of rent received (s.34) and tenants may request a copy of this. Quarterly rental account statements are currently provided to tenants; and
- **Bond lodgement:**
DH does not have to lodge the bond in accordance with the Residential Tenancies Act.

Am I eligible for a DH property?

To be eligible for subsidised rental accommodation, you must meet the following criteria:

- Be an Australian citizen or permanent resident;
- Live in Western Australia and receive your income here;
- Meet current income limits;
- Not own property or land;

- Not have cash assets in excess of \$36,400 (singles) or \$60,600 (couples), \$80,000 (Seniors 60 years plus, singles or couples);
- Be able to prove your identity; and
- Be 18 years of age or above.

Previous DH tenants must ensure that all rental, water consumption or tenant liability debts from their most recent tenancy, and 50 per cent of any other DH debts, are repaid before being eligible for further accommodation.

To be eligible for subsidised rental housing or other assistance through DH, the combined gross (before tax) weekly income of applicants, their partners and any co-applicants must not exceed limits set by DH. See the DH website for more details: www.housing.wa.gov.au(.)

If you believe you meet all eligibility criteria, you can lodge an application for rental accommodation at any of DH's regional and branch offices.

Do I still have to pay a bond?

All DH tenants must pay a bond equal to four weeks of the full market rent (NOT the subsidised rent) when they enter into a tenancy agreement. You will usually have to pay a \$60.00 deposit but this can be negotiated depending on your circumstances.

You can arrange to pay the bond to DH in affordable instalments of a minimum of \$5.00 per week (as at January 2010). If you request a transfer, your bond will be transferred with you. For more information, refer to DH's "Bond Accrual Policy" in their Policy Manual: (www.housing.wa.gov.au)

Getting the bond back

According to DH policy, no monies can be deducted from the bond account until the property is vacated. DH may take deductions out of the bond money for any monies owed, for example, outstanding water account or rent arrears.

DH does not have to get your agreement before taking deductions out of your bond money. If you do not agree to the deductions, you can appeal through the DH Appeals Mechanism (see section below) or make an application to your local Magistrates Court.

See the following chapters for further information:

- [5.01 Getting the Bond Money Back](#)
- [5.02 Fair Wear and Tear](#)
- [5.03 Applying to the Magistrates Court for a Bond Disposal Order](#)

Are there any special conditions placed on DH tenants?

Like any landlord, DH may impose special conditions on its tenants. Any special conditions should be written into the tenancy agreement, must comply with DH policy, and not be inconsistent with the Residential Tenancies Act (s. 82).

Can a tenant appeal a DH decision?

Tenants can appeal a decision made by DH about their application, tenancy or liability, subject to a few exceptions. The tenancy agreement, the Residential Tenancies Act and DH Policy Manual should be referred to when dealing with a DH tenancy problem.

Certain decisions cannot be appealed. These include decisions:

- Of a general nature such as an increase in rent for all DH tenants;
- You received more than 12 months ago;
- Where legal action has been taken by DH;
- That are being or have been considered by the Minister or the State Ombudsman; or
- Relating to the purchase or sale of DH assets, including properties.

How do I lodge an appeal against an adverse decision?

To lodge an appeal you must complete and return to DH an appeal form:

- That the Department sends you with the original decision;
- Available from your local DH office; or
- Downloaded from the Department of Housing website www.housing.wa.gov.au/Files/homes_appeals0902.pdf

It is important you provide DH with any extra information such as medical reports, support letters from other Government agencies or people who are helping you, when you lodge your appeal. This is to make sure that all of your concerns are looked at during the appeal hearing.

After DH receives your appeal form and supporting documentation, your appeal is looked at according to a formal process involving two levels of appeal:

Tier 1:

An internal review by a Senior Review Officer who has not previously been involved in your case. Your case will be reviewed to see if:

- All relevant factors have been looked at;
- If the decision was reasonable given your circumstances;
- If sufficient evidence was available to reach the decision;
- Whether the original decision should be overturned; and
- Whether your case is eligible to be heard by the Regional Appeals Committee (See Tier 2 below).

The Review Officer may contact you to ask for extra information during this process. You will be notified of the outcome of the Tier 1 review within 30 days of your appeal being received by DH. Sometimes your appeal will be forwarded on to the Regional Appeals Committee (Tier 2).

Tier2:

An Appeal Hearing by the Regional Appeals Committee.

If an appeal hearing is arranged for you, the Regional Appeal Committee will invite you to attend the hearing so you can discuss your case. DH recommends that you bring someone along to help you - this may be a friend, family member or someone who has been helping you with your situation.

The Committee will ask you questions to make sure that all the issues are understood. After hearing your case the Committee will look at all of the facts before reaching a final decision.

What If I still disagree with the Decision?

Depending on the decision which is being appealed, DH tenants may also have a matter heard in the Magistrates Court. However, in the court, DH policies are usually not considered by the Magistrate and you will need to rely solely on the Residential Tenancies Act to present your case.

See the following chapters for more information:

- [6.01 The Magistrates Court](#)
- [6.02 Seeking a Performance Order from the Magistrates Court](#)
- [6.03 Preparing for Court](#)
- [6.04 Going to Court](#)

If you have further queries or need more advice on how to lodge an appeal against a DH decision, contact Tenants Advice Service, or a local tenancy worker (see chapter [1.12 Community Contacts](#)).

TAS' free telephone advice for tenants is also available for DH tenants:

Metropolitan Callers : 9221 0088
Regional Callers (Freecall) : 1800 621 888