

1.05 Real Estate Agents & Property Managers

Many tenants rent privately owned properties that are managed by a property manager or real estate agent. In these situations, managers/agents often become the primary contact person for the property. If you believe that the property manager you are dealing with is not conducting themselves in a professional manner, you can complain (see section on next page).

Even if you have no direct contact with the property owner, it is important that you have a clear understanding of who is the best person to contact in various circumstances. For example, an owner may arrange for the property manager/agent to collect the rent, but may still wish to deal with other tenancy related matters (such as maintenance and repairs) themselves.

Property Managers, Agents and the Law

How the *Residential Tenancies Act (1987)* applies to your tenancy depends upon your lease agreement. If the behaviour of the property manager/agent places them in breach of the terms of your tenancy agreement or the *Residential Tenancies Act*, you can serve them with a **Notice of Breach of Agreement**. See chapters [1.03 The Residential Tenancies Act](#), [2.08 The Tenancy Agreement](#), [3.09 When the Owner is in Breach of the Agreement](#) and [3.10 Requesting that the Owner Remedy a Breach of the Agreement](#) for more information.

Owner or Agent?

It is important to know that whilst you may be dealing directly with the real estate agent about your tenancy, it is the owner who takes on all the landlord responsibilities under the *Residential Tenancies Act (1987)*. If the agent or owner does something wrong and you have to fill out a breach notice or go to court, it is the owner you will list on the forms and notices.

What does a Property Manager do?

Duties of a private rental property manager may include:

- Showing tenants through properties;
- Assisting with the selection of a tenant;
- Advertising for tenants;
- Lodging bond;
- Collecting rent and issuing receipts;
- Conducting property inspections;
- Arranging for repairs and maintenance if necessary (with the approval of the property owner);
- Forwarding accounts and collecting payments (for example, water consumption costs);
- Issuing breach or termination notices to the tenant;
- Arranging court proceedings if the tenant breaches the lease agreement

When you apply for a property through a property manager or real estate agent, you will be required to complete an Application for Tenancy form. These vary from one company/business to another. See chapter [2.06 The Application for Tenancy](#) for more information.

Do Property Managers and Agents have to be qualified?

Yes! Property managers and agents must be registered real estate sales representatives and the real estate agency must be licensed. This licensing and registration system is administered by the Real Estate and Business Agents (REBA) Supervisory Board.

****Check REBA & REIWA websites!!!*

REBA is a state government authority responsible for regulating the activities of real estate and business agents and their sales representatives in WA. Do not confuse REBA with REIWA, which is an industry association for real estate agents in WA.

Property managers and agents are required to complete a property management course and also be registered before working in the industry. REBA requires aspiring property managers to provide a police clearance and to be of “good character and repute” before obtaining a certificate of registration.

Code of Conduct

REBA’s *Code of Conduct for Agents and Sales Representatives* provides a detailed explanation of acceptable standards of practice for agents and property managers. The Code of Conduct states that agents and property managers:

- Must act fairly and honestly (section 5(1));
- Must not knowingly mislead or deceive any person in negotiations or transactions (s. 5(2)).
- Must not engage in “harsh or unconscionable conduct” (s. 5(3)), meaning property managers/agents must behave reasonably and not unfairly in their dealings with tenants.
- Must not knowingly induce or attempt to induce a person to breach a contract of sale, letting or agency (s. 3(1));
- Must exercise skill, care and diligence (s. 7).

If you become concerned that the property manager/agent you are dealing with is not conducting themselves according to the Code of Conduct, you may have grounds to lodge a formal complaint to REBA. It is essential that you are able to prove that your claims are founded in fact. You will need to provide a detailed explanation of what has happened and include all supporting documents, evidence and witness statements with your complaint.

If you do not have any evidence to support your claims and it essentially comes down to your word versus the property manager/agent’s, it may still be worth lodging a complaint as you may be one of several tenants that have had similar dealings with the same manager/agent.

Who do I address the complaint to?

You may choose to first forward a written complaint to the Principal of the real estate agency that has been managing your tenancy. It is important that you include your contact details, the date, the name of the agent, and the address of the property. It may be useful to include a timeline of events if your complaint has involved several events. You may also wish to request that they send you an acknowledgement or response within a specific period of time (for example, 7 or 14 days). State clearly in the letter what outcome you wish to achieve.

If you would like to pursue a more formal complaint, you may wish to contact the Department of Commerce (DoC) or the Real Estate and Business Agents' (REBA) Supervisory Board. Complaints may be received more favourably if you have tried to first resolve the matter with the manager/agent concerned and the Real Estate Agency/Licensee. Both DoC and REBA have formal complaint forms that may be downloaded from the internet (www.commerce.wa.gov.au; www.reba.wa.gov.au). Alternatively, you may wish to contact them directly and request that the forms be sent to you. Tenants Advice Service also provides these forms to tenants.

Department of Commerce (DoC)

Street Address 219 St. George's Terrace, Perth WA 6000
Postal Address Locked Bag 14, Cloisters Square WA 6850
Phone Advice Line **1300 30 40 54**

Real Estate & Business Agents (REBA) Supervisory Board

Street Address The Forrest Centre, Level 6, 219 St. Georges Terrace, Perth WA 6000
Postal Address Locked Bag 14, Cloisters Square WA 6850
Phone Advice Line **1300 30 40 64**

List of Tenants' Rights Manual chapters referred to in this info sheet:

- [1.03 The Residential Tenancies Act](#)
- [2.06 The Application for Tenancy](#)
- [2.08 The Tenancy Agreement](#)
- [3.09 When the Owner is in Breach of the Agreement](#)
- [3.10 Requesting that the Owner Remedy a Breach of the Agreement](#)