



# Occupancy Factsheet

## Rent/Board

**Having trouble paying your board or rent?**

**Is there a dispute about how much is owing?**

**Are you getting what you paid for?**

**Has the amount you pay been increased?**

**Before you panic, understand your rights and your obligations...**

### **BOARD – WHAT IS IT?**

As an occupant you pay board in return for the use and enjoyment of the premises and facilities. Your occupancy agreement should set out how much you are required to pay for board (sometimes called rent). Generally, the agreement will also set out how board will be paid and when payment is due. This can be weekly, fortnightly or even monthly.

If there are no details in your agreement, or you do not have a written agreement, you can rely on whatever has been the accepted practice and period of payment. However, if an occupancy agreement continues for longer than 6 weeks, the [Residential Tenancies Act 1997](#) states that the occupant is entitled to the certainty of having the agreement in writing. So if you are going to stay a while, you can ask to have this information written down.

### **PAYING BOARD – THINGS YOU SHOULD KNOW**

#### **Board in advance**

Board is generally payable in advance. This means that you pay a set amount of board (or rent) up front, on or before the day you move into the premises.

The grantor does not have to ask for board in advance. But if the grantor has asked, it is worth trying to negotiate a reasonable amount. Depending on the circumstances, paying more than 1 month's board in advance is generally considered unreasonable. If the grantor is requiring you to pay more than 1 month in advance, then you should consider seeking advice.

It is also important to take into account how much board in advance you have paid when you give notice to end your occupancy. You need to work out how much you will owe in board up to and including the day you move out.

If this calculation means that you need to miss a board payment, or make a partial board payment, it is a good idea to explain this in writing to your grantor when you give notice. If it means that you have overpaid board, write to the grantor asking them to refund the extra amount to you.

**It is your responsibility to make sure you pay the board you owe.**

#### **Keeping receipts**

Your agreement should set out how board is to be paid. Unless board is paid directly into

a bank account, the grantor should provide occupants with receipts. Receipts can be hand-written, but if they are, make sure they include important information such as:

- your name
- the date
- the amount
- the fact that the payment was for board

Keep all receipts in a safe place!

## **FALLING BEHIND...**

### **What do I do if I fall into 'arrears'?**

You are in 'arrears' when you are behind in your payments because you have not paid board on the due date, or you have paid less than you need to. This will almost certainly be a breach of your occupancy agreement. Check your occupancy agreement to see what the consequences are if you pay late, or don't pay at all.

**Note:** DO NOT WITHHOLD BOARD in an attempt to make the grantor do repairs. You leave yourself vulnerable to eviction if you do this.

### **What if I don't agree that I am in arrears?**

Mistakes and misunderstandings can occur. Check your receipts to see if a mistake has been made. If you make payments into a special bank account, ask the grantor for a bank statement listing all your payments.

Double-checking may stop the problem in its tracks.

### **What should I do if I am in arrears?**

If you cannot make a payment, contact the grantor *as soon as possible* and inform them when you can pay off the arrears.

If you aren't able to pay off the arrears in one payment, contact the grantor to explain the situation. You may be able to reach an agreement to pay off the amount over time,

for example you could offer to pay an extra amount per week. BUT remember not to offer more than you can afford, as this will inevitably lead to problems.

Make your offer in writing. Sign, date and keep a copy. This will be useful even if the offer is not accepted, as the letter can be used as evidence that you have tried to fix the problem.

### **Can I be evicted?**

Being behind in your board payments will almost certainly be a breach of your occupancy agreement. **Breach of the agreement can lead to eviction.**

The grantor may not accept any offer you have made to catch up. Even if you have caught up, the grantor may still want you to leave. Grantors do not need a Tribunal order to evict an occupant.

However, before a grantor can evict an occupant, grantors must follow any procedures that are set out in the Occupancy Agreement and House Rules. The Occupancy Principles also require that grantors use reasonable dispute resolution processes and give you reasonable notice before evicting you. If the grantor does not follow the agreement or the Occupancy Principles, then the grantor could be in breach. (For more information see [Occupancy Factsheet: Having a Dispute?](#))

If the grantor is threatening you with eviction but you do not think you are in arrears, or you think that the grantor is in breach of the Occupancy Principles or your agreement, then you can lodge an application with the ACT Civil and Administrative Tribunal (the Tribunal). The Tribunal will be able to hear the dispute and make a decision about eviction. Even if you have already left the premises, you can still lodge an application because it is possible for the Tribunal to compel the grantor to give back the room to you, and/or award compensation.

If you are in arrears, seek advice as soon as possible from the Tenants' Advice Service on 6247 2011. For more general information see Occupancy Factsheets: [Having a Dispute](#) and [Ending an Occupancy and Eviction](#).

## **INCREASING THE BOARD**

The Occupancy Principles state that occupants must be given at least 8 weeks notice of any increase in board.

### **What if you do not receive 8 weeks notice?**

If the grantor does not give you at least 8 weeks notice, then you can challenge the increase by applying to the Tribunal.

It is advisable to write to the grantor as early as possible stating that you do not intend to pay the increase because you were not given enough notice. Be sure to keep a copy of the letter as evidence, in case there are legal proceedings at a later stage.

If you and the grantor disagree about when the increase starts, you can make an application to the Tribunal to resolve the issue. There is an application fee. If paying the fee would cause you hardship, you can fill in a form called "Request about Payment of Fees" to ask for the fee to be waived (ie not charged to you) or delayed. The Tribunal can:

- determine *whether* proper notice to increase board was given;
- state the date when the board will increase;
- require that any overpayment in board be repaid to you.

### **How much of an increase is reasonable?**

There are no legal limits on how much the grantor can increase the board under an occupancy agreement. The only limits on how much the board can be increased are the limits that are agreed to in the occupancy

agreement itself. It is therefore worth negotiating and limiting possible rental increases.

Tenants are able to challenge 'excessive' rent increases. This can be used as a guide for occupants. What is considered 'excessive' in a tenancy is dependent on a complex formula involving the index number. The index number is the rents component of the Consumer Price Index (CPI) for Canberra. It is calculated by the Australian Bureau of Statistics to measure the average increase in rents in the ACT.

You could negotiate that your board can only be increased by the same percentage as the increase in the rental CPI. This would mean that your board will go up by the same proportion as the average rental property in the ACT. The rental CPI figures are available from the Australian Bureau of Statistics, or under Tenancy Factsheet [Rent Increases: Is my increase excessive?](#) on the Tenants' Union website: [www.tenantsact.org.au](http://www.tenantsact.org.au).

However, it is important that both you and the grantor are able to understand and calculate any limit that you agree to. If you think that the rental CPI option will be too complex for either you or the grantor, it might be worth setting a simple percentage limit on increases, eg 5% per year. You could even make the increase a set amount, such as \$10 extra a year. That way, you will both know what you're up for, and it minimises the chances of error, misunderstanding and disputes.

Make sure whatever increase you agree to will be affordable for you, and that you put it in your agreement in writing.

### **How often is it reasonable for increases to be made?**

Again there are no specific laws regulating how often board can be increased. However, using tenancy agreements as an example of reasonable practices, rent can not be

increased more often than every 12 months. Try to have this limitation on the frequency of board increases included in your occupancy agreement.

## REDUCTIONS IN BOARD

### When can you have the board reduced?

As an occupant you pay full board in return for the use and enjoyment of the premises and facilities. However, there are occasions where, through no fault of your own, the use and enjoyment of the premises or the facilities are diminished. This could involve:

- the loss of any appliance, furniture, facility or service supplied by the grantor;
- the loss of your use of part of, or all of, the premises;
- interference with your quiet enjoyment of the property. This may include interference with your right to use the property in reasonable peace, comfort and privacy.

Loss of these services and facilities in these ways could be a breach of your occupancy agreement. You should be getting what you pay for!

If this occurs, you should write to the grantor, advising them of the problem as soon as possible. Request that the problem be rectified within an appropriate timeframe and that you be compensated for breach of the occupancy agreement. Keep a copy of the letter.

If you do not receive a satisfactory response you can apply to the Tribunal to resolve the dispute. The Tribunal may order compensation for any breach of the occupancy agreement. There are no rules or formulas to determine how much you should be compensated. Each case is different, but you need to be able to demonstrate the extent to which the breach has affected your use and enjoyment of the premises. For more information, see Occupancy Factsheets: [Having a Dispute?](#)

**This is a summary of your rights and responsibilities.**  
**If you have a specific problem, you should seek more detailed advice.**

**Tenants' Advice Service 6247 2011 free legal advice for all ACT tenants (& others renting their homes)**

<p><b>Tenants' Union (ACT)</b> ..... 6247 1026  <a href="http://www.tenantsact.org.au">www.tenantsact.org.au</a></p>	<p>6247 1026</p>	<p>publications, information, workshops, law reform                      general information and news on tenancy/renting issues</p>
<p><b>Welfare Rights and Legal Centre</b> .. ..... 6247 2177  <a href="http://www.welfarerightsact.org">www.welfarerightsact.org</a></p>	<p>6247 2177</p>	<p>free legal advice and assistance for low income tenants</p>
<p><b>Office of Regulatory Services (Bonds)</b> .....6207 1178                      (Fair Trading ) ..... 6207 0400  <a href="http://www.ors.act.gov.au">www.ors.act.gov.au</a></p>	<p>6207 1178 6207 0400</p>	<p>bond lodgement, return and inquiries                      complaints against real estate agents</p>
<p><b>ACT Civil and Administrative Tribunal</b> .....6207 1740  <a href="http://www.acat.act.gov.au">www.acat.act.gov.au</a></p>	<p>6207 1740</p>	<p>dispute resolution &amp; enforcement of tenancy legislation</p>
<p><b>Housing ACT information line</b> .....6207 1150  <a href="http://www.dhcs.act.gov.au/hcs">www.dhcs.act.gov.au/hcs</a></p>	<p>6207 1150</p>	<p>ACT public housing enquiries</p>