

## Bond

In this factsheet we will refer to the Residential Tenancies Act (RTA), the Standard Tenancy Terms (STT) and the ACT Revenue Office of Rental Bonds (ORB).

### What is bond?

A bond is a payment by the tenant to secure the tenant's compliance with the terms of the residential tenancies agreement.

### How is bond lodged?

If your lessor or their agent requires a bond, you can pay it directly to them (cl 20(a) STT). A receipt must be provided.

If you pay your bond directly to your lessor, they have 2 weeks to lodge the money with the ACT Revenue Office of Rental Bonds (cl 20(c) STT). If you pay it to a real estate agent they have 4 weeks to lodge it. You can lodge the bond yourself with the ORB. You will need to produce evidence that you have lodged it with the ORB (s 24 RTA and cl 19 STT). The ORB will provide a receipt. If you don't receive a receipt contact ORB to check that the bond was lodged.

If the lessor/agent hasn't lodged the bond the first step is to contact the Office of Rental Bonds and request that they write to your lessor or real estate agent to remind them that the bond must be lodged. If this is not successful you can apply to the ACT Civil and Administrative Tribunal (ACAT) for an order requiring them to lodge it. The landlord can also face a maximum penalty of \$2200 for failure to lodge it (RTA s 23(3)).

The bond remains with the ORB for the duration of the tenancy.

A landlord does not have to ask for a bond. However, if they do, the bond cannot be more than 4 weeks' rent (s 20 RTA).

Although the bond is calculated at four weeks rent, a lessor cannot require the bond to be increased if the rent increases.

### What can be deducted from the bond?

A bond is to be refunded at the end of the tenancy. However, the lessor is entitled to claim from the bond the following:

- (a) the reasonable cost of repairs to the premises; and
- (b) the reasonable cost of securing the premises (in other words replacing keys or rekeying the premises if you do not return the keys); and
- (c) any rent outstanding the end of the tenancy; and
- (d) the reasonable cost of replacing the fuel provided to the premises; and
- (e) any reasonable amount of legal fees incurred by the lessor in assigning the tenant's rights under residential tenancy agreement; and
- (f) any amount expressed in a term of the agreement to be deductible from the bond, if the term is endorsed by the ACAT under section 10 of the RTA.

The landlord must be able to support any claim they make on your bond money with evidence.

When you move out, either with the appropriate notice or when breaking the lease, the lessor should arrange a final (or check-out) inspection with you present.

Prior to the final inspection you should remove all your belongings and clean the premises. Return all keys at the inspection and ask for a receipt. You may be held liable for rent and any damage while you retain access to the premises

At the inspection you and the lessor should go through the original condition report and try and agree what cleaning or repairs are necessary. If agreement is reached the agreement should be recorded in writing. This could include things like:

- Tenant to get cleaner to come back and clean bathroom;
- Tenant agrees to release \$XXX from the bond for lessor to carry out further cleaning.

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If there is agreement that allows release of the bond, you and the lessor should sign the appropriate bond release form and have it lodged.

If you cannot reach agreement, you can lodge your own bond refund form.

Bond forms are available from the ACT Revenue Office: [Office of Rental Bonds website](#).

### What happens when the bond is disputed?

If ORB receives a bond release application form that is not signed by the landlord or all tenants:

- ORB will notify the other party that a claim has been lodged;
- The other party will have 10 working days to dispute the release;
- If they do not receive notice of dispute the bond will be paid in accordance with the application
- If the other party disputes release of the bond the matter will be referred to ACAT.
- The referral of the application and notice of dispute is taken to be an application to the ACAT about a tenancy dispute.

### Evidence of the condition of the premises

The best evidence that you can have is visual evidence - video and/or photographic. Take the time to video/photograph all rooms inside the premises, and (if applicable) the outside too when you move in and when you move out.

If any areas are raised as an issue at the final inspection when you are moving out (eg an area of carpet, or a crack in the shower screen) then take additional close up photos of these areas.

### Condition reports ('inventories')

The condition report is viewed as evidence of the condition of the property at the beginning of the tenancy (section 30 RTA). It is very important that you keep a copy of the report with your comments.

One day after you move in, the landlord/agent must provide you with 2 signed copies of a condition report (or "inventory") stating their assessment of the condition of the property, and any goods leased with it (s29 RTA). You have 2 weeks to return 1 copy to them.

It is very important to complete the condition report in as much detail as possible noting any problems you see. It is also advisable to take photos or video the premises at the same time.

If you don't agree with part or all of the statements, add your own comments, sign it, make a copy, and give them a copy.

If you don't receive a condition report you should document this, and advise the landlord/agent in writing that it hasn't been received. You should also do your own Condition Report. You can download a template for a Condition report from our site.

### At the end of your tenancy

As a tenant you are expected to return the property in substantially the same condition and level of cleanliness it was in at the beginning of the tenancy (as noted in the condition report), allowing for fair wear and tear (cl 64). You cannot be made to improve the property (cl 65 STT).

### Fair wear and tear

'Fair' relates to the cause of the damage. For damage to be excused, it must have occurred in the course of fair use of the property for residential purposes.

For example, wear to a carpet in high traffic areas of the premises (e.g. hallways) could occur in the course of fair use. On the other hand, it would be hard to argue that a huge hole in a carpet or large oil stains on a carpet occurred during fair use.

'Wear and tear' refers to the effect and severity of the damage. Minor scuff marks on walls, sun-fading of curtains and minor oil stains on a concrete driveway would all likely be fair wear and

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tear. A large red wine stain on the carpet would probably be considered to be more than 'wear and tear', even though the stain could happen in the course of fair use.

What amounts to 'fair wear and tear' depends on the facts of each case. If you and the landlord can't agree, it will be decided by ACAT. ACAT will take into account the condition of the property at the start and the end of the tenancy, as well as the general age and condition of the property.

### Professional cleaning

There is no requirement for you to use professional cleaning or carpet cleaning services at the end of your tenancy.

However, ACAT accepts that carpets have to be professionally cleaned at the end of your tenancy if your tenancy agreement says so AND if the carpets were professionally cleaned at the beginning of the tenancy. The landlord **MUST** provide a receipt showing that this was done.