

# Tenants and residents affected by fires in Queensland



When you rent a property to live in Queensland your tenancy agreement or rooming accommodation agreement is covered by the *Residential Tenancies and Rooming Accommodation Act 2008*.

## If you want to leave

Where the premises have been destroyed, or made completely or partially unfit to live in because of a fire event, you can end your tenancy agreement using a *Notice of Intention to Leave* [Form 13 \(general tenancies\)](#) or [Form R13](#) (rooming accommodation), available from the Residential Tenancies Authority (RTA) website.

The grounds for the Notice are 'non-liveability' and the Notice must be given to the real estate agent/lessor/provider within one (1) month of the event. There is no minimum notice period, which means that you can leave on the same day you give the Notice, though you can also choose to give a longer notice period.

If you live in a caravan park and the park is unliveable you can also end your agreement on these grounds with the Notice.

In the event that there is a dispute about the non-liveability of the premises, keep evidence (e.g. photos) of the fire damage to the premises to support your decision to end the agreement for non-liveability.

## If the agent, lessor or provider wants you to leave

Where the premises are destroyed, or made completely or partially unfit to live in, the agent/lessor/provider can end the agreement by giving you a Form 12/Form R12 Notice to Leave. For the Notice to be valid, they must give it to you within one (1) month of the fire event. The agent/lessor/provider can ask you to leave on the same day that you are given the Notice, though they may also provide a longer notice period.

## If you want to stay

If the agent, lessor, or provider has given you a Form 12/R12, and you want to stay, or disagree that the property is 'non-liveable'; you can dispute the Notice by using the RTA's dispute resolution process. You can write a letter or email to the agent/lessor/provider setting out the reasons you want to stay, including why you do not think the premises are non-liveable. If you do not hear from them, or they dispute that the premises are liveable, you can lodge a [Form 16 Dispute Resolution Request](#) with the RTA.

If you have a QDI you can lodge your application [online](#).

You can contact the RTA via telephone on **1300 366 311** after submitting the Form 16 to ensure they are aware that you have been impacted by a fire event..

For further information, [see the Resolving Tenancy Dispute fact sheet](#).

## Rent

If you intend to stay in the fire damaged property and you have not been given a Form 12/R12, you can try to negotiate a rent decrease with the agent/lessor/provider. Any agreement made must be put in writing, with a copy to be kept for your own records

**HINT – photograph or scan any documents with your phone in the event that you misplace physical documents.**

If an agreement about the rent decrease cannot be reached, you can apply to the RTA for dispute resolution by following the process above.

## What's inside

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### Who's who?

A **lessor** is the person who gives a tenant the 'right to occupy' a residential premises. Lessors often employ real estate agents to manage premises on their behalf.

A **provider** is a person who provides rooming accommodation to residents.

**Tenants Queensland (TQ)** is a specialist community and legal service which has been providing services to and representing the interests of residential renters in Queensland since 1986.

**QSTARS** is a program providing specialist advice and support to renters, funded by the Qld Government, delivered by TQ

The **RTA** is the government authority that manages rental bonds, provides forms and information, conducts dispute resolution and investigates complaints of unlawful conduct under tenancy laws.

The Tribunal or **QCAT**, hears and makes binding decisions about residential tenancy disputes.



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If dispute resolution is unsuccessful, the RTA will issue a Notice of Unresolved Dispute (NURD), which allows you to apply to the Queensland Civil and Administrative Tribunal (QCAT) for a determination regarding the rent decrease.

Unless you have a written agreement with the agent/lessor/provider, or there is a QCAT order about the rent decrease, you are required to continue paying rent in full, even if you are not living at the property while repairs are ongoing.

## Repairs

If the premises are damaged you must notify the agent or lessor as soon as possible.

If repair issues are defined as “emergency repairs” under the tenancy legislation you can lodge an application at [QCAT](#) for an urgent repair order. Emergency repairs include serious fire damage.

You can also arrange for emergency repairs to be carried out, up to the value of four weeks rent. You can make a requirement that the lessor/provider reimburse you for repairs you have paid for, or that the agent or lessor must pay the amount to the actual repairer. The requirement must:

- be made in writing; and
- be supported by any receipts or documents showing the amount incurred; and

state that if the lessor/agent does not comply with the requirement within 7 days after receiving the notice, you will apply to QCAT for an order about the amount. This section does not apply to rooming accommodation.

## Cleaning due to fire damage

If the premises have been made dirty due to the fires, the agent/lessor/provider is responsible for cleaning the property and inclusions. You are responsible for cleaning your goods and possessions. However, local councils and community groups may be able to help you following a fire event, and an agreement can often be reached about the help they can offer you.

If you are moving out, ensure that you clean and remove your possessions. You are not responsible for cleaning or paying for fire damage. However, if there are parts of the property that are not fire damaged which you can safely access, you are responsible for returning these to the condition you received them in, excluding fair wear and tear.

## Damage to your property

If your possessions have been damaged by a fire event, the agent/lessor/provider is NOT responsible.

Tenants and residents may wish to take out a contents insurance policy to cover their possessions in case of damage due to storms, flood or fire.

If you have an insurance policy, contact your insurance provider about making a claim.

## Bond

As soon as your tenancy ends and you have handed over the keys, you should claim your bond. The quickest method is via the [RTA Web Services](#) website with a QDI. Alternatively you can complete the RTA [Form 4 Refund of Rental Bond](#) and send it in the post.

If all parties agree with how the bond is to be distributed, the RTA will pay the bond according to the instructions. Make sure the RTA always has your current contact details.

If there is a dispute about part of or all the bond, the RTA will hold the bond while the parties go through the bond dispute process.

See the fact sheet [Rental Bonds](#).

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## Compensation

Generally, compensation is not available for losses caused solely by fire damage.

However, if the agent/lessor/provider:

- was notified of a repair issue prior to a fire event occurring; and
- failed to repair the issue within the permitted time stated in any written notice given (or, if no time was stated in the notice, within a reasonable time); and
- the failure to repair caused you to suffer a loss

you may be able to claim compensation against the agent/lessor/provider.

An application for compensation due to breach of agreement by the lessor/provider is a non-urgent application to QCAT. You are required to first lodge a Form 16 Dispute Resolution Request with the RTA to conciliate the dispute. If you are unable to come to an agreement with the agent/lessor/provider, the RTA will issue you with a NURD which you will then attach to your QCAT application for a final determination on the dispute.

You have six (6) months from when you became aware of the breach to make an application for compensation because of a breach of the rental agreement. The application can be made during or after the end of the agreement.

## Other help available

[Current bushfire warnings and incidents](#)

[Bushfire Safety Guide](#)

[Emergency Apps During a Disaster](#)

[Legal Aid Queensland](#)

[Community Legal Centres Queensland](#)

## Tenancy Facts

Tenancy facts information for renters are available at [www.qstars.org.au](http://www.qstars.org.au)

### Tenancy Facts include:

- Renting in Queensland
- Starting a tenancy
- Rental bonds
- Rent and other charges
- Entry and privacy
- Repairs and maintenance
- You want to leave
- Lessor ends the tenancy
- Resolving tenancy disputes
- Tenancy databases

## Further help

### Tenants Queensland

Tenants Queensland (TQ) is a specialist community and legal service which has been providing services to and representing the interests of residential renters in Queensland since 1986. QSTARS is managed by TQ and delivered in collaboration with partner organisations.

For administration issues contact TQ on 07 3832 9447 or visit [www.tenantsqld.org.au](http://www.tenantsqld.org.au)

### Queensland Statewide Tenant Advice and Referral Services (QSTARS)

QSTARS provides specialist tenancy advice, advocacy support and referral for Queensland renters.

Contact QSTARS for tenancy advice on: **1300 744 263**

Open Mon – Friday 9am – 5pm  
(extended hours to 7pm on Tuesdays and Wednesdays)

Visit [www.qstars.org.au](http://www.qstars.org.au) for more information and to access tenancy fact sheets and videos.

### Residential Tenancies Authority (RTA)

The RTA is the government authority. RTA tenancy forms are available online at [www.rta.qld.gov.au](http://www.rta.qld.gov.au) or call 1300 366 311

### The Queensland Civil and Administrative Tribunal (QCAT or the Tribunal)

To find your local Tribunal (except for Brisbane QCAT sits in the local Magistrates Court) or get QCAT forms visit [www.qcat.qld.gov.au](http://www.qcat.qld.gov.au) or call QCAT on 1300 753 228

### Translating and Interpreting Service (TIS)

If you need an interpreter let us know when you call, or call the TIS translating and interpreting service on 131 450 so they can help you contact our service.

Disclaimer: This factsheet provides information only and is not intended to provide legal advice.