

From: David Shearer david.shearer@parliament.govt.nz
Subject: RE: Urgent Changes Required To Residential Tenancy Act
Date: 23 May 2013 3:04 pm
To: Judy Morgan judy@judymorgan.co.nz

Thanks for sending us a copy of your email to the Prime Minister.
I will pass your comments on to David Shearer for his information.

Dinah Okeby
Office of David Shearer MP
P +64 4 817 9145

labour.org.nz

From: Judy Morgan [mailto:judy@judymorgan.co.nz]
Sent: Thursday, 23 May 2013 1:38 p.m.
To: John Key
Cc: Hon. Dr. Nick Smith; Hon. Phil Heatley; Winston Peters; David Shearer; Hon. John Banks; J Collins (MIN); T Turia (MIN); adrienne.meikle@dbh.govt.nz; david.smol@dbh.govt.nz
Subject: Urgent Changes Required To Residential Tenancy Act

23rd May 2013

Dear Sir / Madam,

I am writing to you with grave concerns regarding Section 61 – Abandonment of Premises.

I am an Independent Property Manager of some 9 years.

Recently I have had a tenant “abandon” the premises.

The keys have not been returned, the rent is more than 21 days in arrears, there is damage to the property, snail-ridden letters in the letterbox etc. There are no personal belongings of the tenant. The property is essentially empty (except for rubbish). It is more than obvious the property has been abandoned.

I lodged an application to the Tenancy Tribunal on 3rd May 2013 to gain possession of the said property.

The Tenancy Tribunal advised me that this hearing would not take place until 27th June 2013. THIS IS EXTREMELY UNREALISTIC. I called the Tenancy Tribunal and complained about this process so they have been able to bring it forward to the 31st May 2013. STILL TOTALLY UNREALISTIC. It means that I cannot as a Property Manager legally enter the property to remove rubbish, have it cleaned and so on ready to re-tenant. A Property Manager’s “duty of care” is primarily to the owner. That is not to say that a tenants health and safety is not paramount. Consequently by the time we gain possession and have it ready to re-tenant, this could feasibly be up to three months. Again INCREDIBLY UNREALISTIC. This places the owner/s in financial jeopardy in many cases.

The Tenancy Act is biased towards tenants in many ways, too many to detail here. It needs to be reviewed urgently.

It is grossly unfair that an owner should have to apply to the Tenancy Tribunal to gain possession of his / hers property/ies especially when it is obvious the property has been abandoned. Why should a person's retirement fund be jeopardised by a delinquent tenant who uses the law to escape culpability and consequences - subsequently the process repeats. If it weren't for landlords, I'm convinced there would be more homeless people in New Zealand. It is time the government looked at this again and more realistically.

I have subsequently ascertained from the Police that the tenant involved in this case has been incarcerated for 2 years for drugs.

Further I checked the "Australian Tenancy Act" regarding abandonment and I have enclosed the details of this. This is what needs to happen here. The owner is already behind with receiving rent and naturally by the time this gets to court for possession, obviously that amount will be much higher. Not to mention going back to court for the arrears, damage etc. Then it just goes on and on - trying to get payment from a tenant. That process is also abominable. Part of this Act I am sure encourages some tenants to flaunt the law because they know that little can be done about it under part of the present Act.

Change is needed urgently.

Tenants must not be allowed to continue to get away with this kind of behaviour. There seems to be absolutely no consequences. This Act in many cases encourages some tenants to do what they like. And when you do catch up with them, few adjudicators apply the "fines" to them. ABSURD - Why have them. They no doubt apply them to landlords. "FARCICAL". Maybe a "grading system applying to tenants could be introduced (similar to the drink/driving laws) and the grades be accessible to the public regardless of the Privacy Act.

The government should realise the number of renters the private sector satisfies. As such the law should empower property owners the most expeditious methods in order to keep the properties rented and minimise costs. As the law stands, it is difficult without good fortune to make money-renting property. The pendulum has swung too far in the tenants favour as to cause landlords to fund delinquents and as such it is my belief that all such tenants should be blacklisted by the private sector to be satisfied by Housing NZ.

In closing - I have been told on several occasions by a local adjudicator that she has to be "mindful of the tenants" - not once has she said she has to be "mindful of the landlords".

I look forward to your response.

Yours faithfully,

Judy Morgan
Managing Director
Judy Morgan Property Management & Rentals
192 Bank Street
WHANGAREI
Ph 09 945 4884 Mob 021 993 519



Office of Hon Dr Nick Smith

Minister of Conservation
Minister of Housing

COPY

18 DEC 2013

Ms Judy Morgan
Managing Director
Judy Morgan Property Management and Rentals
192 Bank Street
WHANGAREI
judy@judymorgan.co.nz

Dear Judy

Thank you for your email dated 23 May 2013 regarding your request for a change to the Residential Tenancies Act 1986 (the Act)

Your concerns and suggestions about Section 61 of the Act are noted.

With regard to wait times for Tenancy Tribunal hearings, officials at the Ministry of Business, Innovation and Employment (formerly the Department of Building and Housing) endeavour to schedule Tenancy Tribunal hearings within 20 working days of receiving an application for Order of the Tenancy Tribunal. Requests for urgent hearings can be scheduled within 5 working days, when a complaint involving violence or property damage has been lodged with the Police.

You have pointed out that in Australia, the State of Victoria's Residential Tenancies Act 1997 requires the Tenancy Tribunal to hear applications for abandonment within two working days of receiving the application. I can understand your concerns about the effect of abandonment on rental property owners and appreciate that you have taken the time to research what other jurisdictions have enacted in this area. In New Zealand, timeframes for scheduling hearings are not set down in legislation. However, I am aware the Ministry is undertaking work to drive down the wait times for hearings and has made good progress – although I expect the Ministry to continue to do better and for wait times to drop further.

A thorough review of the Residential Tenancies Act 1986 in New Zealand was carried out during the period 2004-2009. As a result of the review, amendments to the Act were put in place on 1 October 2010, redefining the rights and responsibilities of landlords and tenants of residential properties. Information about the changes to the Act can be found through the Ministry's website at: www.dbh.govt.nz/news-2010-rta-review.

The purpose of the Act is to provide a range of measures to clarify and appropriately balance landlord and tenant obligations. As Minister of Housing, I am satisfied that the review of the Act was comprehensive and that the revised Act meets its purpose.

The Tenancy Tribunal is administered by the Ministry of Justice. As a Minister of the Crown and a member of the Executive, I am unable to comment on, or intervene in, judicial matters, including those determined by the Tribunal.

If you have concerns about bias towards tenants at Tenancy Tribunal hearings and wish to make a complaint about the conduct of a specific adjudicator, please contact:

Rex Maidment
Principal Tenancy Adjudicator
P O Box 2124
Rotorua

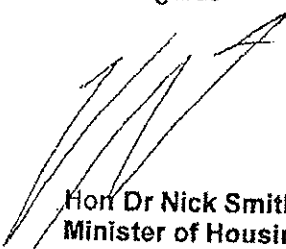
Please note that while the Principal Tenancy Adjudicator can address concerns relating to the conduct of adjudicators, he cannot overturn or amend Tribunal decisions. These can be referred to the District Court if need be.

For further tenancy advice or information, including details of the Tenancy Tribunal process, you can call the Ministry's tenancy advice line on 0800 TENANCY (0800 83 62 62) or visit its website at: www.dbh.govt.nz/tenancy.

I take note of your particular concerns about property abandonment and am attracted to the provisions you refer to in Victoria. This is an option I want to explore further.

Thank you for taking the time to write to me.

Kind regards



Hon Dr Nick Smith
Minister of Housing

P.S. Thanks for your letter. I am doing more work on abandonment of properties and looking at Vict. model. Idea is worth exploring. Best wishes,



16 January 2014

Hon Dr Nick Smith
Private Bag 18041
Parliament Buildings
WELLINGTON 6160

Dear Dr Smith

Thank you for your prompt response dated 18th December 2013 to my email dated 23 May 2013 regarding Section 61 of the Residential Tenancy Act.

I note that you say a hearing can be called in 5 working days if a complaint of violence or property damage has been lodged with the Police. I have been advised by the Police on more than one occasion that the Police will not and do not interfere with tenant related matters. So how can this be????

However under the restraints of the Act on Landlords and Property Managers in regard to abandoned properties, damage cannot be ascertained without inspection and violence may not be an issue.

It is not rare to find an abandoned property broken into by thieves and/or vandals between the time of abandonment, discovery and legal access being granted to the Landlord or Property Manager by the Tribunal.

One aspect is clear however and that is, it will be the hapless landlord who is going to pay for the clean up and generally in addition to the outstanding arrears that necessarily follow in an abandoned situation.

I am most pleased to discern from your correspondence that the Ministry is working toward reductions in waiting times from the Tribunal hearings. Nevertheless they have a long way to go. Having to wait more than a week is absolutely absurd to get a hearing.

As you are no doubt aware, the review of the Act was largely the work of the previous Labour administration and the changes made were predominately to the advantage of the tenant. This I can verify by having spoken to many, many landlords regarding the Act.

Unaccountability on behalf of the tenant who is in effect "borrowing" another's house albeit for a fee, is enabling recalcitrant and delinquent tenants to simply trash properties or run up arrears with impunity from any outgoing sanctions that may lead to an improvement in overall tenant attitudes. Further unaccountability on the Tribunal/Justice for "chasing" up any debt also does not help the situation. These matters I believe should be processed in exactly the same manner as court fines.

As such, I put it to you the "balance" of which you speak has turned out to be a decidedly one-sided affair.

EMAILED
16.01.2014

I am sure it has not escaped your notice that if private rental delivery becomes uneconomic, Housing NZ would become the nations landlord which I am convinced would appeal to Labour's "Social Justice" philosophy, but is in stark contrast to what any fair-minded believer in the free-market should expect from a National administration.

We all know that to break a shop front window, riding a bike without a helmet or running off owing several thousand dollars will land you in court with penalties resulting, yet leaving a damaged property owing thousands in arrears with virtually no sanctions at all can only but exacerbate problems for the private rental property market. Of course the property does not have to have been abandoned for this to happen either. Meth poses a huge problem for any landlord and this needs to be looked at as well.

Were it not for the private landlord sector the countries "homeless" situation would be far greater.

I trust that you will give these matters your urgent attention and pleased to hear that you are looking into the Victoria Tenancy Act.

I look forward to your reply.

Yours faithfully



Judy Morgan
Property Manager

Cc Phil Heatley