Residential Tenancies Advocacy Practice Note #07/003
Rent Payable

Background

We have received a number of enquiries from tenants regarding the calculation of rent payable, particularly in relation to the calculation of weekly and fortnightly rent. In many cases, the Real Estate Agent acting on behalf of the landlord has insisted that their own method of calculating eg monthly to weekly rent be accepted, even where this method does not comply with the method employed by the Tribunal, pursuant to the relevant provisions of the Residential Tenancies Act (RTA).

What is the issue?

Whilst the calculation of monthly, weekly or fortnightly rent payable (or vice versa) may seem straightforward, there appears to be continued widespread confusion on the method of rent calculation applicable to tenancies and residencies.

What should you do?

1. The method employed by the Tribunal for calculation of rent payable is outlined below, and should serve as the basis for advice provided to tenants.

2. The first step is to calculate the daily rent. Once a daily rate has been established, the correct amount payable on a weekly or fortnightly, basis (if not already clear) can be easily calculated by multiplying the daily rate accordingly (by 7or 14).

3. Section 39 of the RTA provides that rent under a tenancy agreement accrues from day to day and, subject to section 242, is recoverable or refundable accordingly. (Section 242 addresses the situation in which a tenant abandons rented premises with rent paid in advance.) Whilst there is no rooming house provision equivalent to section 39, the commentary at section 281 indicates that the Tribunal calculates rent on the basis that it accrues daily and refers to the commentary at sections 39, 246 and 506 as to the calculation of rent and the calculation of the required notice period.

4. The commentary at section 39 of the RTA is useful in ascertaining how the Tribunal calculates unpaid rent, (and, by implication, the rent payable). At [39.01], for rent payable per calendar month is calculated by multiplying the monthly rental by 12, then divide by 365 and rounding up or down to 2 decimal places to obtain a daily rate. Similarly, for rent payable per fortnight, divide the fortnightly amount by 14 and round up or down to 2 decimal places to obtain the daily rate. Likewise, weekly rent is divided by 7 and then rounded up or down to 2 decimal places, to obtain the daily rate.

5. In short, rent payable is calculated as follows:

    Monthly Rent multiplied by 12 divided by 365 = daily rent

    Fortnightly Rent divided by 14 = daily rent

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Weekly Rent divided by 7 = daily rent

6. Accordingly, in the circumstances where a tenant has been paying monthly and wishes to change to making fortnightly payments, but is unsure of the amount to pay each fortnight, the above method should be employed.

This Practice Note is a guide only and should not be used as a substitute for professional legal advice If you have a question about this Practice Note or a specific case you want advice about then you should contact us on **(03) 9411 1444**

Regards,
Tenants Union Legal Service

References

Residential Tenancies Act 1997 [s.39, 281, 246, 506]