

Residential Tenancies Practice Note

Credit Reports and Applications for Residential Tenancies

Background

Private businesses known as credit reporting agencies collect and hold information in regard to an individual's credit worthiness. This information is known as a credit report, as defined in the Privacy Act 1988 (The Act). They are also referred to as credit files.

The two main credit reporting agencies in Australia are Veda Advantage and Dun and Bradstreet. To obtain information on an individual's credit worthiness a credit provider must first subscribe to one of these companies. An individual's credit file will be made available to them once they have obtained the appropriate authority from the prospective customer. They use this information to assess applications for credit.

The definition of credit provider is fairly broad under the Act. It includes banks, finance companies, telecommunication and utility companies. The Office of the Privacy Commissioner does not consider a real estate agent or landlord to be a credit provider as defined by the Act.

A credit report from Veda Advantage is divided into two parts:

1. Consumer Credit Information
2. Public Record Information

An agent or landlord who have subscribed to a credit reporting agency will only be given access to the second part of a person's credit report – Public Record Information. This can include information made available from court records, the Insolvency Trustee Service of Australia and the Australian Securities and Investment Commission. This can be information on court judgments in regard to debt, bankruptcy and directorships.

What is the issue?

In the application process some real estate agents require a prospective tenant to provide consent for them to obtain access to their credit report for the purpose of checking their credit worthiness. For example one application we have seen contains the following statement:

*I authorise the Agent to obtain details of my credit worthiness from the owner or agent of my current or previous residence, current or previous employer/s, my personal referees, **any record, listing or database of defaults by tenants.***

Prospective tenants ring the Tenants Union of Victoria for advice on the legality of such a request.

The Act prohibits disclosure of information on an individual's credit report to any one other than a credit provider in the course of assessing a person's credit worthiness.

Contacts

The Office of the Privacy Commissioner

Address: GPO Box 5218 Sydney NSW 2001

Phone: 1300 363 992

Website: <http://www.privacy.gov.au/complaints>

Consumer Action Law Centre

Address: Level 7, 459 Little Collins Street, Melbourne, Vic, 300

Legal Advice Line: 03 9629 6300 or 1800 466 477

Website www.consumeraction.org.au

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 require advice about then you should contact us on **(03) 9411 1444**

Tenants Union Legal Team

