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NATIONAL QUEENSLAND COMMERCIAL REAL ESTATE

Queensland tenancy laws 'ineffective' for victims of domestic violence

By Amy Mitchell-Whittington
18 December 2017 - 09:04pm

Queensland's tenancy laws are "ineffective" in protecting those fleeing domestic violence situations, a Brisbane study has found.

       Griffith University student Bianca Fernandez examined the existing structures in place for those forced to break their lease due to domestic and family violence situations and found it could be a long, daunting process.



Griffith University's Bianca Fernandez is calling for rental tenancy reform after she compared Queensland law with the New South Wales tenancy regime, where a person can terminate their lease within two weeks with an appropriate protection order.

Photo: Supplied

According to the Queensland Civil and Administrative Tribunal, someone living in a domestic violence situation who wants to get their name taken off/put onto the lease, have someone removed from the lease or prevent their information being listed on a tenancy database needs to apply to QCAT, a process that can often take a minimum of three weeks.

According to the [Residential Tenancies Authority website](#), in making the order the “Tribunal would have to be satisfied that the applicant had established evidence of domestic and family violence, such as having a domestic violence order, or having applied for one”.

Ms Fernandez said this was often a drawn-out process that “exposed domestic violence victims to sustained financial hardship”.

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“There needs to be a way to fast track that (application process) and perhaps even backdate the date for terminating the lease so that if they are already out of the property and the property is damaged or there is rental arrears then they are not liable for that,” she said.

“In my opinion, the most important thing is the severance of liability and that needs to be immediate.”

Women’s Legal Service Queensland social worker Bronwen Gray said the time-frame was a serious barrier in situations where the victim had fled a property but was still required to pay rent until their name was taken off the lease.

“In terms of financial disadvantage, that is a major factor that impacts women’s ability to leave and also to set up their new home because they are having to pay rent to their old property,” she said.

“It makes it much more difficult to move into a new property in the private rental market, especially if their bond is tied up.”

Ms Gray said perpetrators damaging property where their name was not on the lease was also a common situation many clients faced.

“This is the most common one, where the perpetrator doesn’t live at the property but comes to the property and destroys (it), punches holes in the walls,” she said.

“We had one case where he purposely poured paint and other liquids over the carpet of the rental property she was living in knowing he wasn’t listed on the tenancy agreement.

“He can’t be followed or chased up to pay for those damages, she was in a position where the cost of fixing everything he had done to that property was so great that even with her bond would not even cover half.”

Ms Gray said there was then the risk the victim’s name would be blacklisted on the tenancy screening database, making it difficult to apply for rentals in the future.

“Real estates are more inclined to put our clients on the TICA database when there is a lack of communication between the victim that we are supporting and the real estate,” she said.

“If we can work with the client to clearly communicate what is going on, often real estates and owners would prefer to come to some sort of arrangement rather than listing someone on TICA.”

Tenants Queensland chief executive Penny Carr said while she was aware of some “empathetic homeowners”, most of the time it was difficult to reach a mutual agreement between the tenant and landlord.

“From a real estate agent’s point of view, they have got a sitting tenant, they often don’t want to have to go to the trouble and at their expense to find another tenant,” she said.

"There are certainly some empathetic homeowners out there, I wouldn't say it is always the case that they don't find empathy, but I would say the majority of cases they reach a barrier in getting out without taking any formal steps."

While there were a number of projects up and running to improve the tenancy market, Women's Legal Services Queensland were working with the Department of Housing to look at improving housing access and Tenants Queensland were working with those at the "coalface" to train them up on tenancy law, Ms Gray said there was still room for further improvement.

"We are looking at working with real estate and providing more information and support so they can make decisions that are in the best interest of victims of domestic violence and support those tenancies better than they are," she said.

"It is not always a bad outcome but it really requires advocacy.

"The energy and time that our clients have to put towards finding and maintaining stable accommodation after a domestic violence incident...it is just one tiny thing they have to do on top of all these other things and sometimes it is just easier for them to leave instead of fighting for their right to stay at the property."

People seeking assistance can contact [Women's Legal Services Queensland](#) on 1800 957 957, DV Connect [Womensline](#) on 1800 811 811 or [Mensline](#) on 1800 600 636.



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