New England and Western Tenants Advice and Advocacy Service Inc.

ABN 31 279 732 390

Armidale: Minto Building 3, 161 Rusden Street, ARMIDALE NSW 2350
Dubbo: Dubbo Neighbourhood Centre, 1/80 Gipps Street, DUBBO NSW 2830
Tamworth: Disability Advocacy, First Floor, 422-426 Peel Street, TAMWORTH NSW 2340

For All Offices Ph: 02 6772 4698 Fax: 02 6772 2999
Email: newtaas@gmail.com
Freecall: 1800 836 268

1800 836 268
1800 TENANT

Committee Secretary
Senate Standing Committees on Community Affairs
PO Box 6100
Parliament House
Canberra ACT 2600

10 November 2017

Dear Committee

Submission to Inquiry into the Social Services Legislation Amendment (Housing Affordability) Bill 2017

I refer to the submission lodged on 10 November 2017 by the National Association of Tenants Organisations (NATO).

I advise the Committee that this organisation supports the NATO submission.

About us:
The New England and Western Tenants Advice and Advocacy Service (NEWTAAS) is funded through Fair Trading NSW as part of the Tenants Advice and Advocacy Program. We are an independent community organisation, governed by a management committee.

NEWTAAS provides advice, advocacy and representation to tenants about their homes in the New England, North West, Western and Far West regions of New South Wales, some 57% of the state.

Of the tenants assisted by NEWTAAS in the period 1 July 2016 to 30 June 2017:

- 20.1% identified as having a disability
- 24.6% identified as Aboriginal or Torres Strait Islander
- 18.5% identified as sole parents
- 55.2% received some form of income support
- 16.3% were in social housing
- 13.6% were at risk of homelessness
- 17.7% were involved in a Tribunal hearing

In addition, our client intake criteria is specifically geared towards providing assistance according to a tenant's capacity to assist themselves. The primary criteria is literacy. It is our experience that at least 30% of the tenants we assist have limited, poor or no literacy.

New England and Western Tenants Advice and Advocacy Service

1800 836 268

The tenants we assisted in that period were experiencing:

- 30.8% were in a dispute about their rental bond or a compensation claim
- 42% were in a dispute about repairs
- 31.9% were in a dispute about rent or other charges

I particularly draw the committee's attention to the difference between the number of tenants in social housing (16.3%) and the number of tenants in receipt of some form of income support (55.2%).

The operation of this legislation will affect a significant proportion of tenants in the private rental market.

Enforcement of ex-parte orders:

I refer specifically to point 2.3 of the NATO submission, and make the following submission in support of the NATO submission against allowing deduction from statutory income to enforce ex-parte orders.

NEWTAAS Tenant Advocates regularly attend hearings of the NSW Civil and Administrative Tribunal to provide a duty advocacy service to tenants. We attend regularly in three venues in the region, and have arrangements to provide representation at venues across the region.

It is a common experience for NEWTAAS Tenant Advocates to witness the landlord or their agent to be in attendance at the hearing, and for the tenant not to attend.

When a Tenant Advocate attends a group hearing list to provide duty advocacy, they take with them a printout of the hearing list. It is a matter of practice that we tick off who attends the general list for both parties. These lists are retained by the Service.

For the most part where the tenant does not attend, the Tribunal is satisfied that notice of the hearing has been served, and the matter proceeds ex-parte.

These applications are frequently for compensation by landlords following the end of a tenancy, including part or whole of the rental bond held, and frequently for amounts far in excess of the rental bond.

We have experience in landlords not providing known current contact details for the tenant to the Tribunal, and of incorrect contact details being provided. We have also frequently been advised that an agreement has been reached and the tenant has been told that there is no need to attend the Tribunal hearing. The Tribunal then proceeds to make orders that do not reflect that agreement, frequently for a higher amount payable, or higher rate of payment.

I advise the Committee that of the past three group hearing list days at three different venues, the tenant attended the Tribunal on average in slightly less than 30% of matters.

New England and Western Tenants Advice and Advocacy Service

1800 836 268

Where the orders are made ex-parte, the Tribunal has not been informed of the tenant's evidence with regard to the application, their capacity to pay, and of other financial obligations. As such, orders may be made where:

1. The determination that the tenant is responsible for the compensable item can be disputed

2. The amount payable for the compensable item can be disputed

It is our frequent experience that where a tenant attends the Tribunal in relation to an application for compensation, the amount payable by the tenant is significantly reduced when they have the opportunity to challenge the landlord's application and evidence, and are supported to submit evidence on their own behalf.

As such, should the legislation support the process of allowing the enforcement of ex-parte orders within the private market, it is probable that further disadvantage will occur, and the process for the tenant to contest the amounts payable both at the compensable amount, and the rate of payment, will be made significantly more difficult.

I request the Committee to take these submissions into account in their consideration of the Bill, and reiterate our support of the National Association of Tenants Associations submission.

I thank the Committee for their consideration.

Yours truly,

KerryAnn Pankhurst
Service Manager