

## From the Tribunal: MOULD AND COMMON TENANCY ISSUES (Part 1)

by Queensland Civil and Administrative Tribunal (QCAT) Sessional Member Bill LeMass.  
Article from 'Open House', a Newsletter produced by the RTA for Property Managers & Owners

**Residential tenancy issues brought before the Queensland Civil and Administrative Tribunal cover everything from the common to the unusual. The tribunal makes decisions on a wide range of residential tenancy disputes between tenants, lessors, agents or other accommodation providers.**

*In this issue of Open house, Tribunal Sessional Member Bill LeMass shares advice about how decisions about mould – a regular tenancy matter before the tribunal – are determined. Regardless of the issue in dispute, Bill says parties involved should understand that “it’s all about the Act” and the decisions made about matters will be determined under legislative guidelines.*

Mould is a frequent source of complaint for lessors and tenants alike, particularly if it is accompanied by medical problems. The *Residential Tenancy and Rooming Accommodation Act 2008* is essentially consumer protection legislation and tenants’ rights related to this issue may be covered under a number of sections of the Act including:

- s185(3) – that a landlord maintains premises so they remain fit for the tenant to live in.
- s94 – rent abatement if the amenity or standard of the premises has decreased substantially “*other than because of malicious damage*” caused by the tenant.

The Act sets out that unless the issue is clearly the fault of a tenant, the lessor must address any naturally occurring “bad luck”, that affects the quality of the tenancy, especially where health and safety is concerned.

So what should a tenant do when a property is affected by mould? It’s simple:

- Don’t just walk out
- Don’t stop paying the rent
- Follow the procedure outlined in the [Notice to remedy breach \(Form 11\)](#)
- If you do not get satisfaction, file an application with QCAT for compensation. Quickly.

And how is QCAT likely to respond? In simple cases the tribunal will probably order compensation; but in more serious cases where premises may no longer be liveable, the tribunal may terminate the lease without penalty for the tenant.

The tribunal regularly receives requests for rent decreases. The Act is very strict and there is little scope for discretionary decision making. Section 94 (2b) states “*in the event that the amenity or standard of the premises decreases substantially*” then “*the rent payable under the agreement decreases accordingly*”.

Regardless of how hard a lessor may try to rectify a situation, if the amenity reduces substantially, the rent may also decrease until the amenity is restored. In determining the reduction in rent, the tribunal will consider what other facilities are on the property – such as yard, lounge, kitchen – and it may also compare what a similar house in the same area, without that problem, may rent for.

For more information about QCAT visit [qcat.qld.gov.au](http://qcat.qld.gov.au).

# LEASED IN FEBRUARY

Rivulet Pl, Bellmere	2 Bed Duplex, Carport	\$240 (same)
Downs St, Redcliffe	2 Bed Unit, SLUG	\$265 (same)
Anzac Ave, Kallangur	2 Bed Duplex, SLUG, Yard	\$275 (same)
Burpengary Rd, Burpengary	2 Bed T/House, SLUG	\$280 (dec \$5)
Miles St, Caboolture	3 Bed House, SLUG	\$285 (same)
Joyce St, Burpengary	3 Bed T/house, ens, SLUG	\$300 (same)
Watt St, Caboolture	3 Bed Hi-set House, DLUG	\$300 (new)
Carob Ct, Caboolture South	4 Bed House, ens, DLUG	\$315 (dec\$15)
Sapphire Ct, Morayfield	4 Bed House, ens, DLUG	\$315 (same)
Damber Cl, Morayfield	4 Bed House, ens, DLUG	\$320 (new)
Station Rd, Burpengary	3 Bed House, C/port, shed	\$320 (same)
Connor Cres, Caboolture	4 Bed House, ens, C/port, Shed	\$330 (same)
Bellini Rd, Burpengary	3 Bed House, 2-Bay Shed, SLUG	\$345 (inc \$5)
Belle Air Dve, Bellmere	4 Bed House, ens, DLUG	\$350 (same)
Hubner Dve, Rothwell	4 Bed House, ens, DLUG	\$355 (same)
Grange Ct, Narangba	4 Bed House, ens, DLUG	\$380 (same)
Caper White Ct, Kallangur	4 Bed House, ens, DLUG	\$400 (same)
Waratah Way, Morayfield	5 Bed House + study, DLUG	\$400 (new)
Dean St, Bray Park	4 Bed House, ens, DLUG	\$410 (same)
Latona St, Warner	4 Bed House, ens, DLUG	\$430 (same)
Wedgetail Cct, Narangba	4 Bed House, ens, DLUG	\$470 (same)
Macdonald Dve, Narangba	4 Bed House, ens, DLUG, Pool	\$490 (same)
McCullagh Cres, Narangba	4 Bed House on 5 acres, ens, 3 Bay Shed with office, horse stables	\$650 (new)
Robbs Rd, Morayfield	4 Bed House, ens, 2 Bed Granny Flat, Pool, 3 Acres	\$670 (same)

## CALENDAR DATES FOR MARCH

### DISBURSEMENTS

Wed 5th March  
Wed 12 March  
Wed 19th March  
Wed 26th March

Monthly Statement  
Issued

Wed 26th March

### OFFICE HOLIDAYS

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Happy  
Birthday  
to us!



Solutions Property  
Management turns  
6 years old this  
month!

## Rent Payments

This is just a reminder that **Carol** our Administration Manager is responsible for receipting rent payments and chasing up tenants in arrears.



If your tenant falls behind in rent, Carol's job is to get them back up to date, and issue Breach Notices where necessary. She will also keep you informed, normally by email.

If you have any questions regarding your tenants' payments please contact Carol at the office or email [carol@solutionsproperty.com.au](mailto:carol@solutionsproperty.com.au).