

RESIDENTIAL TENANCIES AMENDMENT BILL 2023

Committee

Resumed from 12 March. The Deputy Chair of Committees (Hon Stephen Pratt) in the chair; Hon Sue Ellery (Minister for Commerce) in charge of the bill.

Clause 1: Short title —

Progress was reported after the clause had been partly considered.

Hon SUE ELLERY: When we rose yesterday, Hon Neil Thomson had asked a question about the percentage of tenants who receive a bond refund at the end of a tenancy. I have the following information, and it includes a correction because I might have misled the honourable member and the chamber when I responded to this issue in my second reading reply.

The data for the period 1 January to 31 December 2023 is that, of all bonds disbursed at the end of a tenancy, 88 per cent resulted in part or all the bond being returned to the tenant. In the second reading reply, I think my comment was that about 87 per cent received the whole of the bond. It is 88 per cent, and part or all the bond is returned to the tenant. I apologise to the member and the house for that error. This is made up of the following: for 38 per cent of bond dispersals, the tenant received a full bond refund, and for 50 per cent of cases, the bond was split between the landlord and the tenant. If it was split between the tenant and the lessor, tenants received on average \$1 455 in refunds and landlords received on average \$515 in bond payments, which is approximately a 75:25 per cent split. That tells us that the current bond amount, which is the equivalent of four weeks' rent plus a pet bond, is more than sufficient to cover any damage that has been done to the premises in 88 per cent of cases. It also tells us that the coverage is sufficient to address any potential damage caused by a pet or to restore any minor modifications to the premises. I note that when we get to the discussion of pets later, in the relevant clauses, the intention is to consult with stakeholders about whether we will need to increase the amount of the pet bond, but we can talk about that when we get to those bits.

Hon NEIL THOMSON: I thank the minister. That was where I was heading with that question, and that accords with the numbers available on the National Housing Data Exchange, housing-data-exchange.ahdap.org. It has individualised data for the partial or full payment of bonds. It has a lot of data; I looked at only this year from 1 January to the end of February and there were 12 000 records. I was quite surprised by the number of bond payments made. About 10 per cent of bonds were retained and held by the lessor. The reason for my question was to determine whether there has been a trend. I am not sure whether the officers here would have any idea. Has there been a trend over time for lessors—the 10 or 12 per cent the minister alluded to—to not recover the full amount they require to undertake repairs? I think that is the issue.

Hon SUE ELLERY: It has stayed about the same. When the series went out in 2019, it was 87 per cent, and now it is 88 per cent, so it has not really shifted that much.

Hon NEIL THOMSON: We probably could dig into that a little more when discussing the pet bond and other aspects when we get to the clause about pets. There was talk of fumigation costs and so forth. A good property manager or lessor keeps an eye on the tenant through the inspection process, and I understand that if damage occurs, it can usually be managed through a process requiring the tenant to pay. I assume that there will be no change in this legislative framework to stop damage caused by the tenant being paid for prior to the termination of the lease.

Hon SUE ELLERY: Now and continuing, if damage is caused during the tenancy, the tenant can be issued a breach notice and required to fix the problem. If the tenant does not address the matter that has been notified in the breach, the lessor can proceed to terminate the lease, and there is no change in those provisions.

Hon MARTIN ALDRIDGE: The bond data is not something that I turn my mind to when considering this bill, but is any of that information publicly available or is it best to ask specifically about it at clause 1 of this bill?

Hon SUE ELLERY: The information that I have relied upon is information that was provided to me by the agency, but information on that is available. Hon Neil Thomson, for example, looked at the National Tenancy Database. That is where the information is publicly available.

Hon MARTIN ALDRIDGE: The Leader of the House mentioned in her opening remarks that in the last calendar year, 88 per cent of bond dispersals resulted in all or part of the bond being returned. Does she know what percentage of bond was returned in full as opposed to returned in part or not at all?

Hon SUE ELLERY: Yes, and I indicated that in my answer. In 38 per cent of bond dispersals, the tenant received a full bond refund, and in 50 per cent of the cases, the bond was split between the landlord and the tenant.

Hon MARTIN ALDRIDGE: I assume that for the remaining 12 per cent, no bond was returned at all, and it was all recovered by the landlord or the lessor.

Hon Sue Ellery: That is correct.

Hon MARTIN ALDRIDGE: Does the minister have any data on pet bonds?

Hon SUE ELLERY: I do not have it here. I can see what might be available, but I certainly do not have it at the table.

Hon MARTIN ALDRIDGE: I refer to consultation. The Leader of the House and the minister in the other place mentioned two primary stakeholders, being the Make Renting Fair Alliance, which is a conglomerate of a number of groups, and the Real Estate Institute of Western Australia. I do not accept the view of the Minister for Housing that REIWA represents property owners and lessors; I think that is a mischaracterisation of what REIWA is. But is there a body in Western Australia that does represent lessors; and, if so, how was it consulted in the drafting of this bill?

Hon SUE ELLERY: I am told there are two other bodies. One is a group called the Property Owners Association of Australia and the other is the Property Investors Council of Australia. Both those bodies were consulted throughout this process, from the beginning to the end. It may be that—my shorthand—towards the end of getting this bill ready for Parliament, we really focused on the groups that were actively engaging on particular issues, and that came down to the Make Rent Fair Alliance and REIWA.

Hon NEIL THOMSON: I want to touch on the consultation regulation impact statement and the decision regulatory impact statement. The first comment I make is I am glad that the department did that piece of work. I think it is probably more than some other documents that have been done for some of the bills that have been presented in this place. I acknowledge that there has been a fair bit of consultation from the department and I put that on the record. However, notwithstanding that, I have some concerns about the decision regulatory impact statement, which I think could have done a bigger task on the economic analysis of the impacts on the actual rental market. I think that the work that was done by the department focused in on specific decisions that arose from the consultation RIS, and then really sort of came up with detailed decisions around the options, but what I could not find in those documents was a clear economic rationale on the matter. Given that we on this side certainly have raised—I think, just to be fair, the Leader of the House has also acknowledged—the fact that there was some concern about the impact on the market, that consideration was given. I guess the difference between the opposition and the government is that we feel that the balance is not right, and that is why we oppose the bill.

I note on page 12 of the decision regulatory impact statement a reference to the Queensland Housing Legislation Amendment Act, which was assented to on 20 October 2021. It referred to the introduction of without-grounds termination, family violence protection, minimum housing standards and allowing tenants to keep pets. There appears to be a difference between the legislation that was introduced there and ours, insofar as we do not have the provisions for without-grounds termination. What seems to be included in ours that was not included in the Queensland legislation is the 12-month effective moratorium on rent increases. That is the difference between the two. I do not know what the underlying legislation was for the Queensland act and whether it already included a 12-month moratorium on rental increases, but I assume that it did not.

This decision was then looked at. The average cost of the reforms was between \$16 and \$107 a year for an investor. I found that quite surprising. This was a piece of work done by Deloitte Australia. There was a conclusion that house prices will decline by between \$71 and \$462 in the long-term. I found that extraordinarily precise, from the point of view of an economic analysis, and extraordinarily small. Notwithstanding that, there was an acknowledgement that there was some impact. Then it referred to the upward pressure on rents at 0.02 per cent over the long-term. I found that quite extraordinary and a little hard to believe.

My questions on this, because I think they are important, are: Was any economic analysis undertaken like the work that was done by Deloitte on behalf of the Queensland government; and, if not, why not? Was there any consideration of the impacts of house prices on rental investments and specifically on rents themselves?

Hon SUE ELLERY: The short answer is no. If we think about the timing of this exercise, the consultation regulation impact statement—the big consultation piece—started in 2019. Then COVID happened. COVID has had a significant structural impact on our economy, the rental market, housing supply and the housing market. As a government, we could see that. We could see what was happening with that. I think it is unfair, in a way, to judge where we have landed on the CRIS and the decision regulatory impact statement, because they began pre-COVID, then we got COVID and the world changed. The CRIS and the DRIS were done with the best intentions, but they were caught in a time when things fundamentally shifted. No, we did not do a specifically separate piece of economic work. We could see what was going on in the market and we made a judgement accordingly.

Hon NEIL THOMSON: That is true; we certainly can see what is going on, and we have data that was provided by the Housing Industry Forecasting Group such as forecasting on dwelling commencements, for example. We know that dwelling commencements is a big part of the rental market; in fact, we would like it to be a bigger part. I believe that something in the order of 20 per cent of the rental market is tied up with new housing. I could be wrong on that, but I understand that the vast majority of new rentals are actually in existing houses. In fact, if we look at the Perth median rent and vacancy rate that was presented by the Housing Industry Forecasting Group, that is page 4 of the paper released in June 2023, we can see that since 2013, the median rent was below \$500, then dropped down to \$350 and then went up to \$550. We see that there was a trend of an inverse relationship between

the vacancy rate and the median rental rate. We also note from that report that there has also been a terrible drop-off in the number of lot commencements or lot finalisations, I think it is. It is much reduced.

Committee interrupted, pursuant to standing orders.

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