

c2020-023C
OPP--OPPOSITION

LEGISLATIVE COUNCIL

COVID-19 Legislation Amendment (Emergency Measures—Miscellaneous) Bill 2020

First Print

Proposed amendment

No. 1 Use of bonds and applications for rent reductions

Page 33, Schedule 1.28. Insert after line 9—

228CA Prohibition on claiming unpaid rent from bonds during moratorium period

- (1) This section applies if—
 - (a) during the moratorium period, a residential tenancy agreement between a landlord and an impacted tenant is terminated, and
 - (b) after the termination of the agreement, there is an amount of rent owing and payable under the agreement.
- (2) Despite any other provision of this Act, and despite any other Act or law, a landlord is not entitled to claim from the rental bond for the agreement any rent owing and payable under the agreement.

228CB Applications by impacted tenants to reduce rent payable under residential tenancy agreements

- (1) An impacted tenant may, during the moratorium period, apply to the Tribunal for an order to reduce the rent payable under a residential tenancy agreement.
- (2) However, an impacted tenant may only apply for an order under subsection (1) if—
 - (a) the impacted tenant has asked the landlord, in writing, to participate in a formal rent negotiation process and the landlord—
 - (i) has not responded to the notice within 14 days of the impacted tenant making the request, or
 - (ii) has refused to participate in a formal rent negotiation process, or
 - (iii) has agreed to participate in a formal rent negotiation process, but the process has not started within 14 days of the landlord's agreement to participate, or
 - (b) the impacted tenant and the landlord have not reached an agreement about the rent payable under the residential tenancy agreement within 21 days after starting a formal rent negotiation process.
- (3) In dealing with the application, the Tribunal may order that—

-
- (a) from a specified day, the rent for the residential premises must not exceed a specified amount the Tribunal considers reasonable in the circumstances, and
 - (b) the landlord must repay to the impacted tenant any rent paid by the impacted tenant since the specified day that is in excess of the specified amount.
- (4) For the purposes of dealing with the application, the Tribunal may have regard to the following—
- (a) any advice provided by NSW Fair Trading relating to the participation of the landlord or impacted tenant in the formal rent negotiation process, including whether the landlord or impacted tenant refused, or refused to make, a reasonable offer about rent,
 - (b) whether the impacted tenant has continued to make any payments towards the rent,
 - (c) the nature of any financial hardship experienced by the landlord or impacted tenant, including the general financial position of each party,
 - (d) any special vulnerability of the impacted tenant,
 - (e) the public health objectives of—
 - (i) ensuring citizens remain in their homes, and
 - (ii) preventing all avoidable movement of persons,
 - (f) any other matter the Tribunal considers relevant.