

A Guide to the Rental Deposit Authority

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Consumer, Building and Occupational Services
Department of Justice



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Background

The Rental Deposit Authority (RDA) is established under the *Residential Tenancy Act 1997* ('the Act') by virtue of the *Residential Tenancy Amendment Act 2005*. The RDA is a statutory authority of the Government of Tasmania, administered by Consumer Building and Occupational Standards within the Department of Justice -.

The purpose of the RDA is to hold all Tasmanian residential tenancy security deposits (or 'bonds'), excluding agreements for fewer than four weeks, premises usually used for holiday purposes, boarding premises, educational institutions, hospitals and nursing homes.

The functions of the RDA are:

- To accept, hold and disburse security deposits in accordance with the Act;
- To collect data on the residential tenancy market in Tasmania;
- To conduct public awareness campaigns to educate parties to residential tenancy agreements regarding their obligations; and
- To carry out any other functions conferred on it by the Act or as may be prescribed.

To perform these functions, a system was introduced to hold a register of bonds. Bonds are lodged with the RDA for the period of the tenancy. At the end of the tenancy, parties to the bond may lodge a claim for the funds.

The system itself is based on signature matching; therefore, the parties who have signed the bond lodgement (or who have transferred their registration by a valid Transfer Form) must also sign the bond claim form. Special arrangements exist for agents that are registered with the Authority.

The purpose of these guidelines is to provide registered agents with procedural and policy information regarding the lodging and claiming of bonds.

Bond lodgement

Registered agents are able to collect a bond directly from a tenant(s). Any bond that is collected must be lodged with the RDA within ten working days of receiving the funds as per Section 25(3) of the Residential Tenancy Act 1997. The Act does not allow any bond money to be held for any additional period.

Some tenants will receive assistance from Non-Government Organisations (NGOs) ie Anglicare or Colony 47. In these cases the NGO is recorded as a party to the bond.

Process for Lodging a bond

1. Collect the bond from tenant (or provide Bond Lodgement form for tenant to lodge direct through Service Tasmania).
2. Complete a bond lodgement form.
3. Each tenant and/or Individual Deposit Contributor (IDC) must indicate the amount of their contribution to the bond.
4. All parties to the bond must sign the lodgement form (excluding the NGO).
5. Lodgements can be submitted at Service Tasmania or posted to the RDA with payment.

If the lodgements are posted directly to the RDA, please include a covering letter with cheque (made payable to the Rental Deposit Authority) or remittance advice that provides a breakdown of the bond amount against each property address.

Lodgement forms **must not** be faxed.

Who needs to sign?

- Any party that wishes to claim against the bond at the end of the tenancy must sign the lodgement form (excluding NGO).
- Bond lodgements cannot be processed without at least one tenant's details.
- If a tenant does not contribute to the bond, it is recommended that they nevertheless be listed on, and sign, the Bond Lodgement Form.

Individual Deposit Contributors

- Individual Deposit Contributors (IDC) are organisations that are listed in the *Residential Tenancy Regulations 2015*. The organisations can contribute to the bond and claim it back at the end of the tenancy.
- The RDA cannot process a lodgement form that only references an IDC. At least one tenant must sign.

NGO Contributions – Anglicare and Colony 47

- If bond assistance is provided from Anglicare or Colony 47 the NGO will provide a Private Rental Support Service (PRSS) number for the bond. The PRSS number and the NGO contribution amount must be recorded in the relevant fields on the lodgement form. The NGO will forward the payment direct to the RDA.

Lodgement at Service Tasmania

- If a tenant wishes to pay a bond directly to Service Tasmania, they can take the completed Bond Lodgement form and payment to any Service Tasmania shop. Please ensure you complete and sign the Agent section before providing to the tenant, and advise them that they will need to sign their section(s) before lodgement.
- Service Tasmania will provide the tenant with two receipts, one of which is to be provided to you. The receipt will show the amount paid and the bond number for your records. If a receipt is not provided, you can confirm lodgement with the Bond Number via the MyBond lookup the next working day after payment, or you may contact the RDA to confirm whether the bond has been lodged. The details can also be viewed via the Agent web portal once fully registered. RDA recommends you obtain the receipt from the tenant (or confirm payment with RDA) prior to giving out the keys.

Transferring funds to the RDA

Payment can be made to the RDA via EFT, cheque, or Money Order. When processing payments, it is requested that a single payment for each batch of lodgements be submitted. If you wish to submit separate payments for each bond, please include a separate remittance advice/cover sheet for each payment.

On processing EFT payments, please enter your Agent ID, followed by the number of bonds as reference (ie. 100000-4). This allows the RDA staff to easily identify your payment and follow up with you if necessary.

Private Rental Support Service (PRSS) - NGO Contributions

Tenants may apply for bond assistance from the Private Rental Support Service (PRSS). Assistance is provided via Non-Government Organisations (NGO), specifically Anglicare in the north and Colony 47 in the south.

If a tenant receives bond assistance, the funds will be paid by the NGO directly to the RDA. The NGO will provide you with a PRSS number that identifies their contribution. The PRSS number is used to match the NGO contribution to the bond record, so please ensure the PRSS number is included on the Lodgement Form.

The NGO will only submit the payment to the RDA once assistance is finalised. If for any reason assistance is not finalised, the payment will not be submitted to RDA and therefore cannot be registered. RDA can only register the bond for the amount received, so if the NGO amount is not received, the tenant contribution only will be registered and no claim above that amount can be accepted.

Multiple tenants with assistance

If more than one tenant is receiving bond assistance (ie. Separate PRSS numbers are issued):

- Submit a separate bond lodgement form for each tenant. Separate bond numbers will be issued.
- Multiple bond numbers can be recorded for the same property, however the total bond monies held against the property must not exceed four times the total weekly rent for that property.

Claiming an NGO Contribution

Who can sign the claim?

- As with other claims, the tenant(s) and agent should ideally sign the claim form. If a claim is made against a bond with NGO assistance, the monies must first come from the tenant's portion. If the claim exceeds the tenants' contribution and you are claiming all or a portion of the NGO contribution, then the Residential Tenancy Commissioner will determine how the monies are disbursed, unless the NGO has received evidence from you and is able to sign in agreement with your claim.
- If all of Colony 47 or Anglicare's contribution is to be returned to them, their signature is not required on the claim form. The RDA will return their contribution.
- Do not sign, or have the tenant sign, the NGO section of the claim form, as this results in incorrect notifications being issued and may delay the process.
- If the NGO has signed to agree to an amount being claimed from their portion, the tenant must also sign the Claim Form for Nil. If the Tenant does not sign the Claim Form, the RDA is still required to allow them the notification period to respond. This will result in delays processing the refund/s.

Share houses

In a shared tenancy arrangement, bonds can be lodged in the name of one tenant or all. There are a couple of options for registering bonds with multiple tenants. You can:

1. Lodge one bond with the RDA
 - All tenants sign the lodgement and note the amount of the bond that they have contributed. The RDA will issue them with the same bond number. Tenants are jointly responsible for the obligations of the tenancy and allocate rooms between themselves. At claim time all tenants must sign the claim. Refer Tenant Transfer for information regarding changes to registered tenants.
2. Lodge one bond with the RDA with only one tenant.
 - A head tenant is responsible for all the obligations of the tenancy. The Authority will issue a bond number to the head tenant. The RDA will only deal with registered parties to the bond, and cannot deal with any sub tenancy issues.
3. Lodge separate bonds for each tenant.
 - Each tenant lodges a separate lodgement form and lists their room number on the Lodgement Form followed by the Street address. The RDA will generate a separate bond number for each tenant.
 - If one tenant leaves the property before the end of the lease, their bond can be claimed instead of processing a Tenant Transfer, and a new bond lodged for any incoming tenant.

You can have multiple bond numbers in the same property, however the total bond monies held against the property must not exceed four times the total weekly rent for that property.

Property Owner/Agent Transfer

If there has been a change of management (Property Owner / Agent) you will need to complete a Property Owner/Agent Transfer form and send the form to:

Rental Deposit Authority

PO Box 56

Rosny Park Tas 7018

Or email to RDA@justice.tas.gov.au

Note: Transfer forms must not be faxed. Please ensure the transfer form is lodged by post, email or through any Service Tasmania shop. If faxed to the 1300 fax number on the claim form, it is likely that we will not receive this form. (The 1300 fax number is for claims only.)

The RDA can only issue notifications to the registered parties. If the property management is not updated, this may mean that the correct Property Owner/Agent will not receive notification of claim against the bond record. Further, if the new Property Owner/Agent needs to claim against the bond, they will not be able to do so until the transfer form is received to update the record.

Where claims and transfers are received at the same time, RDA staff will ensure the transfer is processed before the claim to avoid delay in processing.

Claims faxed prior to registration of a transfer form will cause delays in processing.

Please note: If there is a change in management of the property:

- and the RDA does not receive a completed Transfer Form, the RDA cannot process a claim by the new agent/owner against the bond because the registered details and signatures will not match.
- you remain responsible for the bond record until the bond is transferred from your name, or the former manager will remain responsible for the bond record until the bond is transferred into your name.
- and a Claim Form is received from the tenant without the agent/owner signature, the RDA will only provide notification to the registered parties.

Tenant Transfer

Tenant transfers refer to where there is a change of tenants, with at least one original tenant (registered to the bond record) remaining at the property. The key rule is that one tenant to the original bond lodgement must remain on the bond record.

A tenant transfer cannot be processed where only a single tenant was registered at the time of lodgement. In this instance, you must follow the standard bond lodgement / bond claim processes.

Note: Transfer forms must not be faxed. Please ensure the transfer form is lodged by post, email, or through any Service Tasmania shop. If faxed to the 1300 fax number on the claim form, it is likely that we will not receive this form. The 1300 fax number is for claims only.

Guidelines

A Tenant Transfer form should be completed where there is a change of tenants, with at least one original tenant remaining at the property. Any continuing tenants are also required to complete the transfer form.

A Tenant Transfer cannot be processed if:

- It is a sole tenant tenancy. The RDA cannot transfer the bond to a new tenant when the original tenant leaves. If one tenant is taking over another tenants lease, then you should claim the bond for the first tenant and the new tenant will lodge their own bond.
- If Anglicare or Colony 47 has made a bond contribution for one or more of the tenants the RDA must first confirm with the NGO if they agree to the transfer or not. If the NGO does not agree, the transfer cannot be processed.

When a tenant transfer is received that cannot be processed, a letter outlining the reason why it cannot be processed, suggested action and a copy of the transfer form will be sent to you. A copy of the documentation will also be sent to the tenant so they are aware of the issue and a copy will be placed on the RDA file for reference.

Bond Claim

At the end of a tenancy, agents must provide a bond claim form to the outgoing tenant/s within 3 working days (Section 28). There is no requirement within the Act for a tenant to provide a claim form to the Agent/Owner.

If a claim form is not provided within 3 working days, the tenants may lodge a claim directly with the RDA, without your signature.

It is not acceptable to have a tenant sign a blank claim form. Claim amounts must be noted on the form before the tenant signs. If there is a change to the claim amounts, a new form must be completed.

If the tenant is present at your office, please ensure they complete all mandatory fields. If the tenant is expecting a payment, account details are essential as all payments are processed electronically. Ensuring this information - as well as contact details - are complete on claim forms can avoid delay in processing of payments.

If information is missing from the claim form or is unclear, or a signature is not matching, processing can be delayed as we are unable to release the bond until the details are verified.

Please ensure forms are completed in black pen, using upper case letters.

Please do not highlight the text boxes as this can black out information when faxed/scanned.

Claim against the bond:

1. Complete the Bond Claim form.
2. Record your Agent ID and ensure that an authorised signatory for your agency signs the form.
3. Record the amount you are claiming. If you are not making a claim against the bond, put zero (0) or NIL in the 'Pay Property Owner/Agent' field. If an amount is not noted, the RDA system does not enter an amount (taking the claim as \$0) and the tenant may submit a claim for the full bond.
4. If you are claiming any part of the bond, the form must show the claim amount **prior** to the tenant signing the form. You must also provide the tenant with a notice stating the reasons for the claim. **Tenants should not be asked to sign a blank claim form.**
5. Provide the signed Bond Claim form to the tenant within 3 days of them vacating.

Note: Please do not fax a claim without a bond number. If you are unable to locate this via your agent web portal, please contact the RDA, or post the form so we may investigate. **Faxing claim forms without a Bond number may result in the claim being loaded to an incorrect record,** which will send notifications to the wrong tenants.

If the tenant does not lodge your signed claim form:

1. Submit a claim form with the PO/Agent section completed, and provide as much detail as is available. Please record any new contact details for the tenant as this will assist the RDA or the Residential Tenancy Commissioner (RTC) to follow up with the tenant directly.
2. Fax the completed form to 1300 737 487 (claim form must be the first page) or email to RDAClaims@justice.tas.gov.au. If you do not have the bond number, check the MyBond Agent Portal, or contact the RDA and we can advise you over the phone or via email.
3. If the tenant does not lodge a claim within 10 working days, or if the tenant submits a dispute, the matter will be referred to the RTC and you will receive an RTC Dispute notification/notice. The dispute notice will state the date your evidence is due by.
4. If a claim is received without a tenant signature, RTC Dispute notifications are issued immediately, rather than an RDA claim notification first. (This is to avoid duplicate notification periods). If the tenant submits an agreed claim form within 10 days, the bond will be paid out as agreed.

Refer to Residential Tenancy Commissioner for guidelines on the bond dispute process. All evidence should be compiled under a Summary of Evidence Form.

If the tenant disputes the claim, or submits a different claim:

1. If the tenant does not agree with the claim, the tenant can:
 - Submit their own bond claim form to the RDA; OR
 - Enter the amount they intend to claim on the form that you have provided.
2. Once received by the RDA, a notification is sent to any party that has not signed the form, advising that a claim has been lodged and that they must act within a certain timeframe.
3. When a claim is received where the parties do not agree to the amount to be disbursed, the matter will be determined by the Residential Tenancy Commissioner.

Note: If the tenant submits a Bond Claim form without the agent signature, a claim received notification is issued to you. You have 10 working days to submit your signed claim form indicating either your agreement or dispute with the tenant claim. If you fail to submit a signed claim form within the notification period, the tenant claim will be processed.

If you are unsure of your claim amount, claim the full bond. If there are any other issues, contact the RDA within the notification period to discuss. Unless you have received written confirmation from us, your claim MUST be received within the notification period. Once the bond is paid out, it is too late.

If all parties agree and have signed the form:

1. The claim will be processed as per the details recorded on the form.
2. If there is an issue with the form (for example, bank account details are missing or the signatures do not match the lodgement), the RDA will contact the relevant party.

Please note that any issues with the forms can cause delays in processing the claim, particularly if up-to-date contact details have not been provided to the RDA.

Signatures

Every party who signed the lodgement form must sign the claim form even if they did not contribute to the bond. The Agent web portal will show all registered parties if you are not sure who signed the original lodgement form.

The NGO (Anglicare / Colony 47) does not need to sign the claim if they are receiving their full contribution back - this is an agreement with these specific organisations. All other registered parties must sign the claim.

Only sign your own section of the claim form. Signing other sections of the form can result in incorrect notifications being issued, which may cause a delay in finalisation.

Change of Name

If a tenant changes their name throughout the tenancy (for example, by marriage or legal name change etc), a matching signature is still required.

If the tenancy is ongoing:

You can lodge a Tenant Transfer form, stating the tenant's registered name as outgoing, and the new name as incoming. You will need to attach a copy of the Marriage or Name Change certificate, or appropriate documentation to support the change.

If the tenancy is ending:

The tenant can submit a Bond claim form completed in the registered name and:

- Sign the form in the original signature (as per the Bond Lodgement form); or
- Sign in the new name, attach a copy of name change documents, and a copy of ID showing the new name and signature to allow verification.

If the tenant submits a claim in the new name without a matching signature or supporting documentation, the claim cannot be processed. This can cause delay to both the tenant and agent.

Deceased Estates

The *Residential Tenancy Act 1997* does not address how the bond is handled where a tenant passes away during the tenancy, other than to say that the tenancy does not vest in the deceased's heirs or successors. In the event of a deceased tenant, a bond claim form will still need to be signed on behalf of the tenant, and submitted to enable RDA to release the funds.

In these situations the claim form should state the tenant name, the contact details of the person who has signed on behalf of the tenant, and attach supporting documentation.

The claim can be signed on behalf of the tenant by:

- The executor of the tenant's estate (as noted in the will); or
- In the event of no will, the person handling the deceased's affairs.

If signed by the executor, supporting documentation includes a copy of the will (or documentation noting the appointment), and a statutory declaration signed by the person who has signed on the tenant's behalf.

If there is no will, supporting documentation includes a copy of the death certificate, and a statutory declaration stating the relationship to the tenant, and the authority they have to sign on behalf of the tenant with regard to the rental bond.

Power of Attorney

A Power of Attorney (POA) is usually granted by the Guardianship and Administration Board in circumstances where a person's decision making capacity is diminished. The extent of the power can be limited to certain matters and may or may not entitle a person to deal with the bond. If someone states that they have a POA it is advisable to contact the Guardianship and Administration Board for advice. If someone is signing on behalf of a tenant under a POA, a copy of the POA document must be attached as supporting evidence.

Guardianship and Administration Board Contact Details

The Registrar

Guardianship and Administration Board

1st Floor, 54 Victoria Street, Hobart

GPO Bod 1307, Hobart 7001

Phone: 1300 799 625 or 03 6165 7500

Fax: 03 6233 4509

Email: guardianship@justice.tas.gov.au

Web: <http://www.guardianship.tas.gov.au>

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Email (Bond disputes): RTC@justice.tas.gov.au
Fax (Bond claims only): 1300 737 487
Lodgement in person: Any Service Tasmania shop

