

## **PICA General Guidance For Landlords Regarding Tenancy Management During Coronavirus (Covid-19) Pandemic**

*Dated: 4/4/2020*

There are over 2.5 million landlord's in Australia's residential property market, providing vital accommodation to tenants across Australia.

Of this number, over 70% own just one investment property. The vast majority of investors are ordinary Aussies helping provide short and long term accommodation for tenants, whilst also working hard to create a little more financial security for themselves and their families.

The majority of investors also have mortgages and other costly outgoings so as to maintain their rentals in good order and provide quiet enjoyment for tenants.

Investors (Landlords) who through no fault of their own, have been severely impacted by the Covid-19 pandemic, along with every Australian. They're among the population significant effected by job losses or reduced work hours and just like others in the community, many of them face challenges in putting food on the table and caring for their families during this crisis. This is a position that some others have overlooked or assumed otherwise.

PICA is providing this information and guidance to our all residential property investors (landlords) across Australia, who are receiving requests for possible rental relief and assistance from their tenants at this unique time.

Our advice for those property investors who are impacted financially by this temporary medical and now financial crisis is to not forgo any rental payments during this period for several reasons we outline below. However we do also acknowledge some investors will decide to provide some short-term financial relief to their tenants, as we strive to find collective solutions to the present challenges.

### **Current Government Assistant:**

Financial assistant packages have been released to help tenants meet their short term financial commitments including their rent, in the event they have either lost their jobs or been retained by their employers during this economic downturn. These packages include:

- Unemployment Benefits: NewStart \$550 per fortnight plus the JobSeeker package of \$550 per fortnight – totalling \$1,100 per fortnight paid by the Government
- Retained by Employer Benefit: Jobkeeper package of \$1500 per fortnight, paid by their employer.

These monies should assist in covering rent over this period for the vast majority of current tenants.

In addition, there have been some state-based rental assistance packages announced, such as in Queensland where rent assistance of up to \$500 per week is being offered to tenants who qualify for help. For more details about tenancy eligibility, click this link to the Queensland Government Website - <https://www.qld.gov.au/housing/renting/rent-assistance/bond-loan/covid19-rental-grant>

More assistance could be set to follow as well. There is a possibility the Federal and/or State Government could announce a Tenancy Relief Package at any time. PICA is calling on all levels of Government to seriously consider options for those who are unemployed due to the current health and economic crisis and who are financially incapable of servicing their rental payment in the immediate future.

Tenants who are experiencing extreme financial hardship in demonstrating no capacity to meet any of their financial commitments should explore with their State or Territory based Tenancy Associations, their hardship options they have available to them as well and we call on the State and Territory Government to announce similar support packages to that of Queensland's emergency rental assistant grants.

## **Tenants and Landlords Dialogue:**

Outside of the additional government assistance money that will start flowing to tenants in April, tenants are welcome to start dialogue with landlords via their property managers to explore further solutions to their situations.

In informing all landlords of such conversations, PICA wants you to be aware of the latest information which could impact you and your own financial position, if you choose to forgo any rent at this time.

## **Landlord Insurance Policies:**

(Guide only – as each insurance company may have differing policy criteria, so best to check with your provider)

- If a landlord offers/agrees to a rent reduction or no rent at all, the Landlord Protection Insurance (LPI) policy will not cover the difference (gap between old and agreed new rent)
- If a landlord makes a loss of rent claim then the insurer will consider the weekly rent to be the 'agreed reduced rent', not the 'original rent'
- If a tenant defaults on rent payments, in order for a 'loss of rent' claim to be considered, the Property Manager needs to follow the Residential Tenancy Act and treat the rent arrears as they normally would, i.e. serve the prescribed notices and apply to the relevant tribunal for eviction
- Given the ban on evictions for 6-mths, it effectively means any 'loss of rent' claim will not be processed until after the eviction ban has ended & the tenant has been evicted (noting there is likely to be a considerable increase in tribunal requests/wait times)
- Loss of rent limit under most policies range from 16 to 20 weeks cover

## **Loan Repayment Deferral/Pause:**

If you are considering a repayment pause, the lender is NOT offering you any interest free period, but rather the interest to be capitalised into the loan over this period. So you need to consider this step carefully before taking action. Any reduced rent that then requires you to enact this, could be of significant further financial cost to you.

By way of example: if you borrowed \$300,000 for an investment property over 30 years, that has 20 years remaining with an interest rate of 3.5%, you'd ordinarily pay \$91,031 in interest over the remaining term, making minimum repayments. But with interest capitalising, the interest you'd pay over the extended term to maintain a similar repayment amount would be \$99,961, which includes the capitalised interest amounts. An increase of \$8,930 in interest costs if you continued to make minimum repayments for the remainder of the term of the loan. Additional repayments of principal will reduce this amount.

## **Property Managers:**

Property Manager cannot and should not be asked to establish the full financial position of any tenant. Yes, they do make initial enquiries and reference checks about working status, character and any previous conduct as a tenant, as per the Residential Lease application process. However these enquiries are not exhaustive nor are they sworn statements, such as a statutory declaration would be. Property managers aren't authorised to make such enquiries and are also not educated, trained, or qualified to make any overall assessment of a tenants ongoing financial commitments and affairs. Furthermore, they don't want to be liable for any advice they pass onto a landlord, in the event a tenant misleads them about this current ability to pay the rent. It puts the property manager into a very unenviable position indeed.

By way of example - A loss of job may not mean the tenant doesn't have any savings, investment income or other means to meet their contractual lease commitments, until the return to work or secure a new job.

In the event a tenant seeks a review of their rent, your property manager should ask for the tenant to put their request in writing for the landlord to consider, in light of their own circumstances.

## **Property Investors (Landlords):**

In the event you are contacted by a tenant, via your property manager, your options include:

- If you are in a difficult financial position, you can decline this request from the tenant. If this is the case, we encourage you to provide sound reasons to your tenant for your decision to decline the request.
- As we advised earlier, you could ask what they can afford to pay now and defer the remainder of the payment to be collected from the tenant once they have the money to hand. I.e. A 'Payment Plan Arrangement' to help assist your tenant/s during this period of time. (The plan needs to be agreed in writing and with your property manager's support, they should be able to administer this on your behalf.

*Important note: Your property manager may still need to issue a notice of failure to pay the full rent due, to ensure they comply with the relevant tenancy act, in the event the landlord does not recover all rent due in the future, as agreed by both parties. This is to also protect the landlord's potential loss of rent claim with their Landlord insurer, in the event the tenant doesn't comply with meeting their rental obligation and is evicted following the 6 month moratorium period.*

## **Tenants Breaking leases on Hardship grounds:**

Information varies from state to state, so please contact your government agency or tenancy association regarding the full information about a tenant requesting to break a lease on financial hardship grounds. It is important to highlight some important points for landlords if this situation presents itself, but again this information is a guide only and needs further clarification within each state or territory:

### **Tenancy Hardship**

If something unforeseen happens and it will cause a tenant severe hardship to stay in the property until the end of the fixed term, the tenant can apply to the Administrative Tribunal within their State or Territory to reduce the period of your fixed term and allow the tenant to end the tenancy. The tenant must continue to pay rent as usual, until the hearing has taken place. If the tenant plans to apply for hardship, they must do so before they move out.

To claim hardship, the tenant will have to prove to the Tribunal that:

- There has been an unforeseen change in their circumstances (e.g. loss of job) and the tenant will suffer severe hardship if the tenancy continues; and
- The hardship the tenant will suffer if the tenancy is not ended will be greater than the hardship of the landlord if the tenancy is ended

The tenant may have to compensate the landlord if they break the lease due to hardship.

### **Break Lease Costs for a Tenant**

Breaking a lease on the grounds of hardship or by giving up possession can be costly to the tenant. The landlord can claim compensation for any reasonable costs they have to pay as a result of the tenant breaking the lease.

The costs a tenant could be liable for include:

- A reletting fee (usually one or two weeks' rent). This must be based on the fee that the agent charged the landlord
- Reasonable advertising costs
- Rent until new tenants move in or until the end of the fixed term (whichever happens first)

Remember under the current directive of the Government, there is currently a moratorium in place whereby landlords cannot evict a tenant for the next 6 months.

## **What can Governments do to help both Landlord and Tenants?**

### **Federal Government:**

- The Jobkeeper and Jobseeker relief packages will go a long way to providing an income for the vast majority of tenants to now be able to pay rent
- The government could release a rental assistance package for tenants who are experiencing further financial hardship, outside of a tenant's loss of employment

### **State / Territory Governments:**

- They could exempt/rebate residential land tax payable for the current year
- Increase hardship rental vouchers for tenants who are experience further financial hardship, outside of a tenants loss of employment

## What more can the Banks/Lenders do to help both Landlords and Tenants?

- They can reduce the premium interest rates currently being paid by residential investors compared to owner occupied borrowers, for both Principal and Interest (P&I) and Interest Only (I/O) borrowings. Evidence suggests that Investor borrowers actually pose less risk of default and arrears on a loan than that of an owner occupier borrower. This will free up much needed cashflow for the landlord household, allowing them to explore deferred payments from their tenant.
- They can allow investor borrowers to switch their current P&I loans back to I/O loans. Once again this will free up much needed cashflow for the landlord household, allowing them to explore deferred payments from their tenant.

There is still some uncertainty about the full positions of the Federal and State or Territory Governments around lease agreements in the residential property market. The situation is developing on a daily basis, so PICA will continue to keep you informed of any government directives or announcements as we all seek greater clarity here.

PICA provides this information to its member's to assist them in making informed decisions about their options, in the event they receive a request for a tenant regarding their rental agreement. We recommend you continue to inform yourself of your options, staying close to your property manager and, if insured, your insurance provider.

Stay Safe, Stay Healthy.

### Your National PICA Board



[www.pica.asn.au](http://www.pica.asn.au)