

**CITATION:** O'Brien v Compass Property Group [2014] QCAT 548

**PARTIES:** Joy O'Brien  
(Applicant)  
v  
Compass Property Group  
(First Respondent)  
TICA  
(Second Respondent)

**APPLICATION NUMBER:** MCDT1251-14

**MATTER TYPE:** Residential tenancy matters

**HEARING DATE:** 27 August 2014

**HEARD AT:** Southport

**DECISION OF:** **Adjudicator Trueman**

**DELIVERED ON:** 20 October 2014

**DELIVERED AT:** Southport

**ORDERS MADE:** 1. **That the Applicant Tenant's name Joy O'Brien and all her personal details be removed from the TICA database or any other like database whatsoever, arising out of the tenancy at 61 Mandalay Avenue, Nelly Bay.**

**CATCHWORDS:** Minor Civil Dispute – Residential Tenancy – application to tribunal for removal of TICA listing – whether incorrect or unjust listing – whether tenants personal name and details should be removed

*Residential Tenancies and Rooming Accommodation Act 2008 s 461*

**APPEARANCES and REPRESENTATION (if any):**

**APPLICANT:** Joy O'Brien

**RESPONDENT:** No Appearance

## REASONS FOR DECISION

- [1] Ms Joy O'Brien was a tenant that rented a property 61 Mandalay Avenue, Nell Bay in Queensland. The fixed term lease commenced on 9 April 2013 and ended on 8 October 2013. Compass Property Group was the managing Agents. Ms O'Brien filed an application on 8 August 2014 to have her name and personal details removed from the TICA database. She claims that she was listed on the tenancy default database after renting the Nell Bay property.
- [2] Ms O'Brien claims that she has repaid all monies owed to the Agents. She did not attach any evidence to her claim to prove that she was listed on TICA or she was the tenant of a residential rental agreement.
- [3] The matter was listed for hearing on 27 August 2014 where the decision was reserved and Ms O'Brien was ordered to file further evidence to support her claim.

## Legislation

- [4] The *Residential Tenancies and Rooming Accommodation Act 2008* provides for a tenant who has been listed on a tenancy database to make application to have their personal details removed.<sup>1</sup> A tenant may be removed from the database if the personal information about the tenant is incorrect or misleading<sup>2</sup> or to leave the tenants name on the database would be unjust in the circumstances<sup>3</sup>.
- [5] The tribunal must have regard to the reason the tenant was listed on the database<sup>4</sup>, any involvement of acts or omissions that the tenant engaged in that gave rise to the listing<sup>5</sup> and any adverse consequences that the listing has or may cause to the tenant<sup>6</sup>.

## Evidence

- [6] Ms O'Brien filed further evidence on the 10<sup>th</sup> and 19<sup>th</sup> of September 2014. She provided a copy of her lease agreement<sup>7</sup>, a letter from Compass Property Group<sup>8</sup> and her TICA database listing report<sup>9</sup>.
- [7] The evidence provides that Ms O'Brien as listed on TICA due to rent arrears owing from 23/9/2013 to 7/10/2013, for general cleaning and damages. The total amount owed was \$1,182.50. The letter from Compass Property Group states that Ms O'Brien has paid all outstanding monies owed to the Lessor and that they do not object to the Ms O'Brien's

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<sup>1</sup> *Residential Tenancies and Rooming Accommodation Act 2008* s 461(1).

<sup>2</sup> Ibid s 461(3)(a).

<sup>3</sup> Ibid s 461(3)(b).

<sup>4</sup> Ibid s 461(3)(b)(i).

<sup>5</sup> Ibid s 461(3)(b)(ii).

<sup>6</sup> Ibid s 461(3)(b)(iii).

<sup>7</sup> Dated 9 April 2013.

<sup>8</sup> Dated 19 September 2014.

<sup>9</sup> Generated 19 September 2014.

name and personal details being removed from the TICA database. The Tenants TICA Database listing report provides that the Compass Property Group made the only listing for the tenant.

- [8] The evidence that has now been provided to the tribunal by Ms O'Brien has been considered and taken into account and I find that she has repaid all monies owed and has cleared her debt with the Lessor.

### Finding

- [9] I find that it would be unfair and unjust for Ms O'Brien's name and all her personal details to remain on the database. I find that it is appropriate that I order that the tenant's name and her personal information be omitted from the database in light of the fact she has repaid the monies in full<sup>10</sup> and to remain on the database would render it extremely difficult or near impossible for her to find appropriate rental accommodation in the future<sup>11</sup>.

### Order

1. That the Applicant Tenant's name Joy O'Brien and all her personal details be removed from the TICA database or any other like database whatsoever, arising out of the tenancy at 61 Mandalay Avenue, Nelly Bay.

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<sup>10</sup> *Residential Tenancies and Rooming Accommodation Act* 2008 s 461(3)(b)(iv).  
<sup>11</sup> *Ibid* s 461(3)(b)(iii).