

23 May 2018

The Committee Secretariat,
Social Services and Community Committee,
Parliament Buildings,
Wellington

By email: ssc@parliament.govt.nz

RESIDENTIAL TENANCIES (PROHIBITING LETTING FEES) AMENDMENT BILL

Please find attached the written response of the New Zealand Property Investors' Federation Inc to the Residential Tenancies (Prohibiting Letting Fees) Amendment Bill.

The Federation is happy to provide the Committee with any further information it may require and wishes to be heard in person before the Social Services and Community Committee in support of this submission.

Yours sincerely

A handwritten signature in blue ink that reads "Andrew King". The signature is written in a cursive style with a large, looping flourish at the end.

Andrew King
Executive Officer



Submission to the

Social Services and Community Select Committee

examining the

Residential Tenancies (Prohibiting Letting Fees) Amendment Bill

23 May 2018

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New Zealand Property Investors' Federation

This submission has been prepared by the New Zealand Property Investors' Federation Inc in response to the select committee invitation to provide feedback on the Residential Tenancies (Prohibiting Letting Fees) Amendment Bill.

Established in 1983, the Federation has twenty affiliated local associations situated throughout New Zealand. It is the national body representing the interests of over 7,000 property investors on all matters affecting rental-housing.

Industry Background

There are approximately 270,000 landlords in New Zealand. There are no corporate or institutional residential landlords.

There are approximately 546,000 residential rental properties¹, housing over 1,500,000 tenants¹, and worth around \$171 billion².

Private landlords are the largest providers of rental accommodation in New Zealand. 87% of tenants rent from a private landlord or trust³. The average length of tenancy has increased from one year and four months in 1995 to two years and three months in 2017³.

Median weekly rent for all accommodation is \$430⁴. The amount spent on rent each week is \$234 million and annually this is \$12.2 billion.

Most property investors (57%) have been engaged in the business for 10 or more years⁵, which dispels the myth that people are investing in property to make a "quick buck". Instead, property investors are using their rental income business as a mechanism for saving for retirement and are professional and committed long-term service/accommodation providers.

The rental property industry paid tax on net rental income of \$1,444,000,000 in the 2016 financial year⁶.

¹ 2013 Census data

² NZPIF Calculation. 475,000 private rental properties multiplied by the February 2018 REINZ lower quartile house price.

³ Regulatory Impact Statement: Prohibiting letting fees under the Residential Tenancies Act 13/04/2018

⁴ Tenancy Bond Centre statistics, April 2018

⁵ ANZ NZPIF Annual Survey 2006

⁶ IRD Data, April 2018

SUMMARY

Letting fees have been charged for many years. Prior to 2010, letting fees were only chargeable by REINZ members and lawyers. The 2010 Amendments saw Parliament increasing the scope of s17(4)(c) to allow all 'letting agents' to charge a letting fee.

A letting agent is not intended to be an owner manager of a rental property, but a person in the business of managing rental properties.

Approximately half of all lodged tenancy bonds are deposited by owner managers, meaning there are many available rental properties that do not have a letting fee attached to them.

Letting fees are a legitimate cost for property managers undertaking the selection process for finding tenants for a vacant property. Property Managers often act as a fulcrum between tenants and rental property owners.

The rental market can change between being easy for a landlord to get a tenant and hard to get a tenant. When it is easy to get a tenant there is little benefit in employing a property manager to find one for you. However when it is hard to find a tenant it can be worthwhile employing a property manager to make the task easier.

In addition, when a property manager provides a complete management service, landlords will pay the letting fee when it is difficult to get a tenant in order to reduce downtime for their rental property.

The same can be said for tenants. When it is difficult for tenants to find suitable rental property, using a property manager can make the process easier. Taking away the ability of tenants to pay the letting fee removes the opportunity for some tenants to put themselves ahead of other tenants who are either unwilling or unable to pay the fee.

The NZPIF believes that whoever gets the benefit of the property manager's service should pay the fee.

When owners manage their own rental property but seeks a property manager to find a tenant, they should pay the letting fee as they are getting the benefit. If the market is such that it is difficult to find tenants, then landlords should pay. If it is difficult to find accommodation, then tenants should pay.

DISCUSSION

Number of properties with no letting fee

The Ministry of Business, Innovation and Employment states that in 2017, of the total 175,081 bonds lodged, 53.6 per cent were lodged by property management companies and it is likely a large proportion of them charged a letting fee.

We do not know how many property managers charged a letting fee and how many didn't, however it is reasonable to assume from these figures that approximately half of the new tenancies did not have a letting fee attached to them.

This means that tenants are not forced to pay a letting fee, however by not doing so, they are restricting themselves to approximately half of the available rental properties available.

This also means that tenants who are willing and able to pay the letting fee can gain more choice and less competition for rentals.

What the letting fee covers

A letting fee is charged to recover some of the costs involved in finding a suitable tenant. These costs include time taken to show tenants the property, performing credit checks on potential tenants, advertising costs in media including Trademe, local papers and other media forms. Abolishing this fee will likely mean an increase in the weekly rent for a property.

Removing choice for tenants

When market conditions mean it is difficult to obtain a rental property, by being willing to pay a letting fee means you are making all rental properties available to you.

Tenants who are either unable or unwilling to pay a letting fee restrict themselves to approximately half of the rentals available at any one time.

Banning tenants from being able to pay a letting fee removes choice for some tenants. By being willing to pay the fee, those tenants will have a greater selection of

properties to choose from and will have a lower level of competition from other tenants.

Benefits of tenants using a property manager

Most owner managers in New Zealand only have one rental property. When tenants use a property manager to find a rental property, they obtain a more experienced service and a wider choice of property, compared to an owner manager.

A property manager may not promote all the properties that become available if they have a potential tenant that they believe will be good for a property.

If they have a prospective tenant that they believe will be an excellent tenant, rather than go through the effort and expense of advertising the property, they may simply offer it to this tenant.

By being willing to pay a letting fee and building a relationship with the property manager, some tenants will obtain a rental without it being advertised. This is a real benefit for the tenant.

Overseas experience

Scotland banned letting fees in November 2012. Tony Williams, managing director of referencing firm UK Tenant Data said "The loss of fees has had a profound effect on the rental sector in Scotland. Initially, the ban hit agency revenue resulting in increased fees to landlords and rents rising to mitigate some of these costs. But what's really interesting is what is happening years down the line post-ban. We are all aware of the obvious fall-out in terms of lost jobs, increased rents and so on, but I simply wasn't prepared for the level of properties that have been withdrawn from agency management and sold due to the increased fees to landlords."

Shelter, which campaigned for the ban in Scotland, did research in 2013 which claimed that only 2% of landlords had raised their rents because of the ban. Shelter said: "Many industry insiders had predicted that abolishing fees would impact on rents for tenants, but our research shows that this hasn't been the case. The evidence showed that landlords in Scotland were no more likely to have increased rents since 2012 than landlords elsewhere in the UK."

However this was disputed in a study by LSL Property Services & UK Tenant Data, who said that "one immediate effect of the fees ban was that rents increased from

January 2013 to January 2014 (the period immediately following the fees ban) by 4.3%, where they had been relatively static for the previous 12 months".

Ireland and Wales looked at following Scotland in banning letting fees, but decided instead to have a requirement that letting fees were disclosed by property managers.

The United Kingdom also has a requirement for property managers to make any letting fee prominent and clear, so that tenants are well informed. New Zealand does not have such a requirement.

Effect on rental prices

Banning tenants from paying letting fees should not have the same dramatic affect on rental prices as ring-fencing losses, increasing the bright line test or a capital gains tax, but it will have some effect.

The MBIE Regulatory Impact Statement estimates an increase in rental prices of a little under \$10 a week. This appears reasonable.

However average tenancies have increased over the years and are now 2 years and three months. This means that most tenants are likely to pay more than the current up-front letting fee.

This may still be partially beneficial for tenants, as it removes a large upfront cost to the tenant when there are other high costs involved when moving to a new tenancy, such as bond and moving charges.

Letting only service

Some property managers offer a service to find owners a new tenant and then hand the ongoing property management services back to the owner. This is often called casual letting.

In this situation the landlord is employing the property manager to undertake a task on their behalf and may not be required to pay for the service they receive. With no cost and a reduced workload, this could have the effect of increasing the number of available rental properties that have a letting fee attached to them

There are companies which are set up only to have a list of potential properties to rent, they do not manage the rental of these properties. A tenant is required to pay a

fee to receive a copy of the list. Often these properties are executive rentals. These companies will cease to exist in the future if the letting fee is abolished.

In this situation, the NZPIF believes that the owner is engaging and receiving the benefit of the property managers efforts and should therefore pay the letting fee.

Owner ending a tenancy

A problem can occur for tenants when an owner decides to sell or move back into a rental property. This is usually signalled well ahead of time or when the tenancy begins. For instance if the owner will be moving back into the property after, say, six months, then this is disclosed and the owner would usually pay the letting fee to the property manager.

However there are circumstances when an owners situation changes and the tenant cannot or is not advised of this.

This is a double blow for the tenant in that they are forced to move when they don't want to and they have only recently had to pay a letting fee. Many owners will provide compensation by paying the letting fee for the tenants next property, however this is not a legal requirement.

It would be a benefit to tenants if owners are required to repay any letting fee if the owner decides to end the tenancy for their own benefit within one year after the tenancy has started.

Conclusion

Tenants currently have a reasonable number of rental properties to choose from that do not have a letting fee attached to them.

Depending on the state of the market, which can and does change, the benefit of the property managers service can either be with the landlord or the tenant.

Completely removing the ability of the tenant to be charged a letting fee also removes some tenants ability to enhance and expand their chance of obtaining a rental property.

It appears that when Scotland banned letting fees paid by tenants it had the effect of increasing rental prices and to a lesser extent reducing the supply of rental property available to tenants.

Increases in rental prices from banning letting fees for tenants will mean the majority of tenants will actually pay more over time than the current up-front cost of the letting fee.

Tenants would benefit from a requirement for property managers to allow tenants to pay off the letting fee on a no extra cost basis over a suitable period of time.

Tenants can currently have unexpected and extra costs if an owner decides to sell or move into a rental property a short time after the tenancy has commenced.

Rental property owners can currently engage a property manager to find a tenant for them but not have to pay for the service. This could be increasing the number of rental properties that have a letting fee attached to them.

Recommendations

The NZPIF recommends that a complete ban on letting fees is not introduced. Instead, the NZPIF recommends that:

1. Property managers should be banned from being able to charge tenants a letting fee when an owner employs them to find a tenant on a casual basis.
2. Property managers charging a letting fee are required to prominently display this fact on any promotional material used in letting a rental property.
3. Property managers should be required to offer tenants the ability to pay off any letting fees on an interest free basis over six months.
4. Letting fees are refunded to the tenant if the owner decides to end the tenancy for their own benefit within one year after the tenancy has started. (Property managers can have a clause in their agreements with owners requiring them to pay the letting fee should this occur)
5. Letting fees should be limited to a maximum of one weeks rent.