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ManagementONE

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Your work, or a specialist? by Will Kenny

One of the more common disputes between caretakers and bodies corporate revolves around the engagement of tradespeople and specialist contractors under a caretaking agreement. These problems are often caused by a lack of clarity and understanding of when such persons can be engaged at the body corporate's expense.

The starting point is to identify if your agreement excludes any duties which are the responsibility of a skilled tradesperson or specialist contractor. It should not be assumed that an agreement will always include a 'carve out' provision or that it will distinguish the type of work a caretaker is or is not required to carry out. In the absence of an exclusion, a caretaker may not be able to compel a body corporate to engage tradespeople or other contractors for certain work that falls within the caretaker's duties.

Even where an agreement contains a carve out provision, disputes still often arise. Where there is uncertainty, a practical approach should be taken to avoid the prospect of a dispute. While duties of a tradesperson are more easily identifiable (i.e. plumbing, building or electrical work where a licence must be held), the need for a specialist contractor is not as clear. In those circumstances, ask yourself the question – if it were your own home, in your own backyard, would it be something that you would ordinarily do yourself?

As a reference, you should have regard to the extent of which the work must be carried out, the requirement for any specialist equipment or skills as well as the extent of the work itself. Take mulching for example. It might be reasonable for a caretaker to mulch a single garden bed that is relatively small in size (where it is not overly time consuming), whereas mulching large garden areas across an entire complex is substantially different in comparison. As a general rule, if the type or extent of the work is of such a nature that it requires a specific degree of knowledge, or particular equipment that requires extensive training and experience to use, then it will likely be caught under the scope of a specialist contractor.

Here are certain examples of how QCAT and the Commissioner's Office have determined disputes of this particular type.

- Tile cleaning. Where tiles require regular and relatively frequent scrubbing, QCAT held that this is not work of a specialist nature. The member found that while a tile scrubber is a specialist piece of equipment, it is not something which requires a trade qualification or intensive manufacturer's training to use (similar to a lawn mower). The caretaker was responsible for undertaking tile scrubbing at no cost to the body corporate.
- Inspecting and monitoring fire services equipment. The body corporate argued that the caretaker had failed to keep records which resulted in it receiving infringement notices. It was determined that the duty to inspect and monitor the equipment did not make the caretaker responsible for the record keeping obligations of the body corporate under fire safety legislation. The adjudicator indicated that the onus fell upon the fire safety specialist to properly advise the body corporate.
- Pruning. The caretaker had an obligation to "ensure that the lawns, gardens and shrubs in the said complex and the adjacent footpath are regularly watered and maintained at a high standard". This meant that the caretaker was responsible for pruning the palm trees with equipment the body corporate was prepared to hire and provide to the caretaker (and actually did so for the external contractor it engaged). The body corporate was entitled to reimbursement of the fee it paid to an external contractor to do the pruning.

It is clear from the examples above that there are circumstances where a caretaker may be required to carry out work, at their cost, for work that might ordinarily be done by tradespeople or specialist contractors. It is not always the case that your agreement will clearly set out what you are required to do. Where an agreement includes broad obligations to maintain common property, this could extend to duties such as mulching and pressure washing. It is not a 'one size fits all approach' and will ultimately depend on the interpretation of your agreement and what the circumstances require.

Stage 2 Rental Reforms by Brenden Eames

The Queensland Government has recently introduced the Residential Tenancies and Rooming Accommodation and Other Legislation Amendment Bill 2024 (the Bill) to Parliament.

The Bill builds on the changes that came into effect in 2022 and 2023, and aims to further strengthen tenant protections in Queensland.

The proposed rental reforms include:

- banning all forms of rent bidding by introducing a financial penalty for owners and agents engaging in the practice;
- requiring bond claims to be supported by evidence and generally improving the rental bond process to increase accountability and transparency;
- increasing renters' privacy by extending notice periods form 24 to 48 hours; limiting access at the end of a tenancy; and limiting the personal information that can be requested/ collected;
- making it easier for tenants to modify and personalise the property, and introducing a dispute resolution process in circumstances whereby the parties cannot agree;
- stabilising rent by legislating a 12-month limit on rent increases which attaches to a property rather than the lease;
- giving renters access to a number of new schemes which will offer renters fee-free options to pay rent;
- a standardised rental application form for all property managers to provide uniformity across the industry; and
- a portable bond schemes allowing renters to transfer bonds between tenancies and offering short-term "top-ups' in the event that part of the bond has been claimed by a landlord.

The Bill is currently before the Parliamentary Committee for Cost of Living for review prior to returning to Parliament later in the year.

We will monitor and report on any developments. In the meantime, it is important to remember that the current rental laws continue to apply until any proposed changes are passed into law.

Smoke Alarm Compliance by Brenden Eames

Homeowners, landlords and property managers/letting agents are being urged to check that any smoke alarms comply with the law after a landlord was charged, and fined, over a fatal house fire.

Despite the current smoke alarm regulations being in place for some time, many investor owners and property managers are unclear about their obligations and responsibilities.

The legislation, first introduced in 2017, requires all residential property owners to replace existing smoke alarms and install interconnected photoelectric smoke alarms. If you are an owner occupier this needs to be done by 1 January 2027. However, these laws already apply to all new homes and renovations and all properties being leased and sold in Queensland.

In addition, within 30 days before the start of a tenancy, the landlord/letting agent must test and clean each smoke alarm.

This is a timely reminder to take the opportunity to ensure that all of the units in your rental pool are safe and comply with smoke alarm rules (in addition to the minimum housing standards that were introduced last year).

For latest CPI figures go to

Click here for Brisbane All Groups CPI figures

You will need to click on "All groups CPI, index numbers(a)" to see the detail. For example, if your remuneration started at $100,000 on 1 September 2016, the correct calculation for the 1 September 2023 increase based on Brisbane All Groups CPI would be $100,000 X 136 (i.e. the last index figure before the review date – the June 2023 quarter) / 109 (i.e. the last index figure before the commencement date – the June 2016 quarter) = $124,770.64. Mahoneys has assisted many managers in having their remuneration increased to market level.