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**'Under Someone Else's Roof'  
Tenants' Knowledge and Experience of  
Tenancy Rights in the Manawatu**

A thesis presented in partial fulfilment of the requirements for the degree of  
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## **ABSTRACT**

This thesis examines Manawatu tenants' awareness and knowledge of the Residential Tenancies Act 1986, as well as tenants' attitudes and experiences of renting within the private residential market. It is based upon the responses of five tenants, four housing workers and two government housing officials to questions asked in semi-structured interviews. The Residential Tenancies Act 1986 has been in force for ten years, but are tenants any the wiser? This is a particularly important question, given changes in housing policies and the state's withdrawal from the direct provision of housing assistance as it looks to the private rental market to pick up the slack. The findings reported in this study indicate: that tenants, in the main, conducted their rental affairs from a position of ignorance; and that those tenants who were uncertain about their rights and obligations were reluctant to seek advice on tenancy matters, or to pursue any formal line of complaint in case they faced eviction.

If tenants expect to receive fair and non-discriminatory treatment in their relationship with private landlords, they need at the very least to be aware not only of tenancy law, but their rights and obligations therein. Therefore, the dynamics and tensions that exist between tenants' knowledge of the law and their relationship with private landlords, fee-paying letting agencies and state functionaries, form a central part of this thesis.

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# CHAPTER 1

## INTRODUCTION

In 1987 and again in 1989 research (Hooper, 1987; Freeman, 1989) was conducted to determine the level of knowledge that tenants of residential properties had of their rights and responsibilities accorded to them in the Residential Tenancies Act 1986.<sup>1</sup> The findings of both these studies prompted extensive and expensive publicity campaigns in 1992 and 1993 (Rivers Buchan Associates, 1994). Ten years after the introduction of the Act, are tenants any wiser for the experience? Through the use of semi-structured interviews this study attempts to describe and understand the awareness, knowledge, experience and attitudes of tenants with regard to tenancy law in the private market.

According to many community-based housing workers, tenants remain largely ignorant of their rights and responsibilities. Given that there has been a greater responsibility placed on the private market than on the state to meet housing need (Crawshaw, 1991; Knight, 1991; Craig et al, 1992), community housing workers argue that tenants are more vulnerable to unfair treatment by landlords and their agents. The supply and demand economics of the residential property market has meant that private landlords<sup>2</sup> have formed a well organised, well informed, articulate lobby group. Tenants, on the other hand, are fractionalised not only by physical distance but also by age, class, race, and status. This problem is further compounded by the fact that tenants

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1. Also referred to as 'the Residential Tenancies Act' or 'the Act'.

2. The term 'landlord' is used generically, to represent both male and female property investors. It is a term used by housing workers, housing officials and tenants alike to denote the property owner rather than reflect their gender.

as a group are transitory. It is not surprising then that the relationship between tenant and landlord is an unequal one.

The former Minister for Housing, Phil Goff (1988:1), said "The fact that 80 per cent of the clients of the Wellington Bond Division are landlords reflects one problem... while most landlords are aware of the Act many tenants are not." Tenants who are not aware of their rights and obligations could consent to the terms of an agreement without knowing the full implications of what they have agreed too. They could be unjustly evicted, required to pay more in bonds or advance rents than the Act allows, or denied accommodation based on discriminatory practices by landlords. Therefore, security of tenure, the right to quiet and peaceful enjoyment, and non-discriminatory practices are important issues for tenants. To have at least a basic understanding of one's rights and obligations as a tenant would obviously be an advantage in securing and maintaining a rental lease agreement.

## **PURPOSE OF THE STUDY**

In a number of public opinion surveys and texts, New Zealanders have revealed a strong desire and ambition to own their own home (Chapman, 1981; Gordon, 1982a; Ferguson, 1994; Davidson, A. 1994). Renting is perceived as an interim measure until people have either saved enough money to put towards the purchase of a home or until they are ready to settle in the one place.

Those who live in rental properties are generally young people, who have left their parents' home to pursue their interests and careers; and people who for reasons of poverty are unable to afford their own home. They are all vulnerable and more often than not ignorant of the rights and obligations accorded them through the Residential Tenancies Act 1986.

In an article written for the New Zealand Housing Network's newsletter, Alston (1993) describes the nature of what are termed parasites - real estate agents, lawyers, and rental accommodation brokers. These are people who are not a direct party to the actual



tenancy but who profit from it by providing unnecessary services at a cost usually to the tenant. Of brokers, Alston (1993:2) says:

In my view, accommodation brokers provide a service, which, at best is no superior to the services that can be obtained from reading the "to let" ads in newspapers. At worst, it is deceptive and dishonest: brokers commonly list properties which do not exist or copy ads from newspapers... the prospective tenants may end up paying fees to both the broker and the agent..

A fixed tenancy can also be a problem for the unwary tenant. A fixed-term tenancy is one that is set for a specific period, usually six or 12 months. It has been noticed by housing workers interviewed for this study that students often consent to such tenancies. Students return at the beginning of an academic year, when rental accommodation is in short supply. Landlords will offer students agreements on the condition that it is for a 12 month fixed term. Students sign because they believe they will not easily find other accommodation. The problem arises when students wish to leave at the end of the year and find they are still responsible for the payment of rent for another three or four months.

The business of renting and leasing residential properties can be a daunting and unpleasant experience for the uninitiated, the unwary and the naive. The nature of leasing or letting rental properties has changed over the years; landlords have turned owning and letting properties into a major commercial enterprise with some landlords owning several properties at any one time.

Since 1987 landlords have been vigorously organising, forming alliances, and actively lobbying both central and local government in order to further advance and protect their interests. Tenants' interests on the other hand have been represented by community or voluntary organisations such as Tenants Protection Associations or Tenant Unions. On the whole these organisations lack the political power and resources to be able to effectively ensure that tenants rights are not abused, overlooked or reduced.

In the early 1980s, tenant protection agencies and Tenant Union groups

began campaigning for the reform of tenancy laws. They were concerned that there was ineffective control of high rents, and that tenants were being evicted unfairly with little notice. It seemed that tenants rights, provided for in existing legislation, were unenforceable (Alston, 1993).

In 1985 the then Minister of Housing, the Honourable Philip Goff (1985:2), announced that legislation governing the transactions between tenants and landlords was in serious need of reform:

Everyone agrees that reform of tenancy law is long overdue. Too often disputes have been settled not by fairly judging the merits of the case, but according to the law of the jungle.

The Residential Tenancies Act came into force on 1 February 1987. A large publicity campaign was initially undertaken and again in 1992 to better inform people of their rights and obligations under the new Act. The Act effected a number of major changes to the law, which included issues of security of tenure, other rights and duties of relevant parties, rent control, bonds, and administration. According to Alston et al (1993) the Act gave a greater measure of security of tenure to tenants. It also established a large administrative body consisting of the Tenancy Tribunal for the hearing of disputes, Tenancy Mediators for matters of arbitration outside the Tribunal, and the Tenancy Bond Division, all of which ensured that the rights and obligations of landlords and tenants would be better protected. The issue of rent control meant that landlords could only increase the rental on a property once every six months and made the requirement that landlords give 60 days notice of an increase in rent. In the area of bonds, the Act introduced two major changes. First, it provided that bonds were no longer to be held by landlords, but by the Tenancy Bond Division of the Housing Corporation. Secondly, the maximum amount of bond was substantially increased from two to four weeks.

On the whole, Goff's reformist measures were successful, and went a long way to achieve the Government's stated aim of establishing "a system which will be fair and impartial in resolving tenancy disputes and in establishing rules governing the behaviour of both parties"

(Goff, 1985:2). The importance of this study lies in its attempt to describe and understand the awareness, knowledge, experiences and attitudes of Manawatu tenants' with respect to the terms, conditions and rights of tenancy law and of anti-discrimination legislation in the private rental market. In this context an attempt will be made to determine if tenants: are aware of their rights; know where to seek assistance on matters of recourse if required; and whether or not they are generally content with their rental circumstances.

The four objectives of this study are:

1. To explore the extent to which tenants are aware of residential tenancy law and anti-discriminatory legislation as it pertains to rental accommodation.
2. To determine the level of knowledge that tenants actually have of the Residential Tenancies Act 1986 and their understanding of anti-discrimination law.
3. To identify and examine incidents where tenants believe their tenancy rights have been infringed.
4. To document tenants' experiences, attitudes and views regarding the of tenant/landlord relationship, renting, and their future housing prospects.

The adage that knowledge is power is an apt saying. If tenants are unsure of or simply do not know their rights they are immediately disadvantaged and in a position of powerlessness.

## **BACKGROUND TO THE STUDY**

The idea for this thesis arose from an incident that occurred in 1990 when, working as a community housing worker, I came across a blatant case of discrimination. A young man in his mid 20s walked in and asked if he could use the phone to call about a two bedroom flat he saw advertised in the paper. The call was very brief. After giving his name

(which was obviously Maori ) the landlord wanted to know if this prospective tenant was working, which at the time he was not. The conversation ended at that point with the landlord announcing that she was only interested in renting to people who were working.

The young man thanked me for the use of the phone and began to leave. I asked him to wait, and if he didn't mind, to tell me the content of the conversation. Needless to say he was surprised, when I informed him that it was illegal to discriminate on the grounds of employment. The case went to the Tribunal, and as a consequence the young man was awarded damages. The case made local and national news,<sup>3</sup> and was reported to be the first of its kind for Palmerston North.

I was left with two thoughts. The first was that the young man simply did not know what his rights were. In this case, he blithely accepted unemployment as grounds on which landlords could actively discriminate. The second was a disbelief that this was the only case of discrimination in Palmerston North. Hence my interest in undertaking a study that looked at the relationship between tenants' knowledge of their rights and their experience of living under someone else's roof.

Arguably it is not possible to keep a research project bias free (Oakley, 1988). It needs to be recognised that I bring to this research a number of values and biases, which are elaborated upon in Chapter 3. As a researcher I entered into this project with the knowledge and experience of five years (1988-1992) working with people who had serious housing needs and difficulties. To a large extent this study is motivated by that knowledge. It is intended that this research will contribute to a growing body of knowledge on tenant experiences and awareness of tenancy law and their responsibilities and obligations therein. It is also proposed that this study will be of use to tenants and community housing agencies who want a review of current policies for the betterment of tenants and their housing circumstances.

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3. For details see *Evening Standard*, 27 July 1990

## **A PROFILE OF PALMERSTON NORTH**

Palmerston North's population at the 1991 Census (Dept of Statistics, 1992:17) numbered 70,000. Of the 23,900 properties in Palmerston North a total of 8,883 properties were privately rented dwellings. In 1996 about 16,000 students took up full-time tertiary study at either the University, Polytechnic or Teachers College. The number of students returning to Palmerston North annually has a considerable impact on the availability of rental accommodation and also the standards of rental properties (Gray and Davey, 1981; Gordon, 1982b; Johnston, 1988; Xing and Morris, 1989). There are a number of community-based housing groups which offer assistance and housing advice to tenants and landlords alike. Palmerston North also hosts the regional branches of both the Tenancy Service Office and the Tenancy Tribunal.

## **THE STRUCTURE OF THIS THESIS**

There are seven chapters in this study. The first chapter begins with a discussion of the legal and political issues tenants contend with, whether consciously or not, in securing and maintaining rental accommodation in New Zealand; its focus then moves to housing workers' perceptions of tenants' experiences. Subsequently, consideration is given to tenants' own views of renting in the 1990s including their understanding and awareness of tenancy law. Finally the study examines the state's key functionaries and the role they play in administering tenancy law as well as their perceptions of tenant/landlord relationships.

Chapter 2 provides both an historical and contemporary view of tenancy law in New Zealand, and the issues surrounding the role of the state in the provision of housing and how this role has impacted upon tenants renting from the private market. This chapter also includes a theoretical discussion concerning the influence of libertarian ideology on the development and implementation of New Zealand's current housing policies.

Methodological issues involved with tenants' awareness, knowledge, attitudes and experience in renting accommodation and the research method employed are discussed in Chapter 3. Within this chapter I also explore the ethical and political issues encountered in undertaking this research and how these were resolved.

Chapter 4 focuses on the views of four housing workers in Palmerston North and their perception of tenants' relationships with landlords, fee-paying letting agencies, and Tenancy Services and the Tribunal. A number of issues raised in this discussion are taken up again in the fifth and sixth chapters of this thesis.

Chapter 5 is the story of tenants' rental experiences, their understanding of their rights and obligations as tenants, and their future housing aspirations. The final section of the chapter focuses on their impression of tenant/landlord relationships and whether they perceive tenancy law to be fair.

In Chapter 6, issues raised by housing workers and tenants about the effectiveness and administration of tenancy laws are addressed by a Tenancy mediator and an adjudicator, as they describe the role of the tribunal and mediation services. These two housing officials also provide a critique of tenancy services and tenancy law as well as their views on the tenant/landlord relationship.

The study's findings are summarised in the final chapter, which includes a discussion and analysis of the findings in relation to the thesis objectives. A number of recommendations are made as well as outlining suggestions for further research. This chapter concludes with a reflective look at the tenants who participated in this study and at recent changes to tenancy law in New Zealand.