

## QCAT Q1363-23 SUBMISSIONS TO HEARING ON 29/08/2023

For office use only	
Case Number	Q1363-23
Date	21/08/2023 8:30 AM
Registry	Brisbane QCAT

**Applicants :** Gordon James Craven - First Applicant  
Janet Craven - Second Applicant  
Angela Louise Craven - Third Applicant

**First Respondents :** Saurav Kataria  
Ashleigh Kataria

**Second Respondent :** S.N.A. Group Pty Ltd. ACN: 113 271 766

The Applicants make submissions according to the direction numbered 3 of Adjudicator E.Gaffney made on 2 August 2023 (document numbered 32 on the Q1363-23 Portal).

### LIST OF DOCUMENTS ON THE Q1363-23 PORTAL TO BE READ

- Document 5 - Application + Statement of Claim and Evidence Schedule.
- Document 17 - Applicant Submissions.
- Document 23 - Affidavit of Gordon James Craven.
- Document 27 - Applicant Submissions.

1. We the Applicants are vulnerable tenants as has been set out at paragraphs 20 to 22.1 of the Statement of Claim (SoC) filed with the Application in this matter.
2. The Respondents served a Form 12 Notice to Leave Without Grounds <sup>1</sup> (the Notice) on the Applicants when they were not entitled to do so because :
  - a. as per paragraphs 15 to 15.7 in the SoC:- by the reason of section 246A of the RTRA Act prohibiting the serving the Notice in retaliation; and
  - b. as per paragraph 16.2 in the SoC:- by the reason of section 291(2) of the RTRA Act prohibiting the serving of the Notice in circumstances that have been set out at paragraph 15.1 of the SoC; and
  - c. as per paragraphs 16.3 and 16.4 in the SoC:- by the reason of section 291(3) of the RTRA Act prohibiting the serving of the Notice in retaliation;ALL of which have disturbed the peace and quiet enjoyment of 8 Musa Place Aroona 4551 (the Premises), by the Applicant tenants.

- 2.1 The Notice vacation day was 26 June 2023 and the Respondents have not sought to enforce the Notice. To the extent that it remains of utility, relevant or appropriate to do so, the Applicants request the Tribunal to set aside the Notice.

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1. Exhibit "J" in the Evidence Schedule.



## THE APPLICANTS HAVING TO LEAVE THE PREMISES

3. As a consequence of the matters set out at paragraphs 2 above, the then existing fixed term tenancy as exhibited at “A-1” in the Evidence Schedule was terminated, and was not renewed into a further 12 month tenancy.
- 3.1 This caused the Applicants to have to leave the Premises as a consequence of the lessor’s actions<sup>2</sup> and find a new family home with a minimum 12 month fixed term tenancy, when :
  - a. exhibits “B” and “E” of the Evidence Schedule show, that the Premises was in fact available for a 12 month renewal; and
  - b. the Applicant tenants were ready, willing and able to enter a 12 month renewal that did not contain the unreasonable and unconscionable terms as have been identified in the SoC, and which had not been present within the “A-1” tenancy, or the preceding 12 month fixed term tenancy.

## FURTHER RETALIATION

4. The Respondents further retaliated by refusing to provide a tenancy reference for the Applicants in their search for a new 12 month fixed term tenancy.
- 4.1 Evidence regarding this behaviour and other obstructive behaviour is filed on the Q1363-23 Portal at :
  - a. Document 17 - Submissions with exhibits.
  - b. Document 23 - Affidavit of Gordon James Craven.
- 4.2 The Applicants contend it to be normal practice, common decency and good faith in the property rental industry :
  - a. for references to be provided to departing tenants; and
  - b. the Applicants have found that it to be a requirement, when applying to rent a property, that a reference is required for the most recent property rental. In this case being the property at 8 Musa Place Aroona (the Premises).
- 4.3 Despite this retaliatory and bad faith attitude with lack of common decency, the Applicants have managed to secure a new 12 month fixed term tenancy which commenced on 9 August 2023, with an option of renewal being also provided.
- 4.4 As such, on 4 August 2023, the Applicants served a Form 13 Notice to Leave by 22 August 2023, on the Respondents.

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2. Section 426(4) of the RTRA Act & Mazi v Community Housing (Qld) Pty Ltd [2023] QCATA 72 at 56.

## **RESPONSE BY THE SECOND RESPONDENT**

(FOR THE FIRST RESPONDENTS - see document 16 on the Portal)

5. On 29 June 2023 the Applicants received by email, an undated and unsigned and unsealed document from the Second Respondent, which fails to properly identify the Second Respondent in the title. The document is numbered 16 on the Q1363-23 Portal and is described on the Portal to be a Response.
  - 5.1 Within that Response document there is no rebuttal or evidence to rebut the Applicant's SoC, or the matters set out at paragraph 2 above.
  - 5.2 However the document does refer to a "*Request for Change*" option....  
And to clarify that option for the Tribunal, a copy of how that option appeared to the Applicants is exhibited at page 6 below which shows it to be titled :

***Lease renewal adjustment request***
  - 5.3 As of the date of these submissions, the Applicants are not aware of any of the Respondents rebutting or providing evidence to rebut or defend the contents of the matters set out at 2 above, or any of the facts and allegations within the SoC.

## **SECOND RESPONDENT GIVES NOTICE OF NOT ATTENDING THE HEARING**

6. On 8 August 2023, the Second Respondent has provided notice to the Applicants of intention to not appear at the hearing on 29 August 2023. A copy of that emailed notice is exhibited at page 7 below.
  - 6.1 In the circumstances of that notice, and :
    - a. the fact that the Second Respondent is agent for the First Respondents;
    - b. the First Respondents having not filed or served a statement of address pursuant to Rule 36;the Applicants believe it is relevant to set out how service has been made on the First Respondents should that become an issue.

## **SERVICE ON THE FIRST RESPONDENTS**

7. Service of the Q1363-23 Application and Statement of Claim with Evidence Schedule on the First Respondents has been made by the following ways :
  - a. Service by the Registry (incorrect address initially provided by Applicants).
  - b. Sealed letter to QCAT Registrar dated 15 June 2023 about that address error made by the Applicants (that letter does not appear on Portal).

- c. Affidavit of Service - Document 12 on the QCase Portal (while this was service of an Amended Application which was subsequently refused by the Tribunal, the form of the original Application was identical).
- d. It is assumed that the Second Respondent agent provided a copy to its First Respondents principals.
- e. This submissions document, along with a notice of the hearing on 29 August, is being Express Mailed and emailed to the First Respondents on the same date of these submissions.
- f. It is also being copied by email to the Second Respondent.
- g. The property owners statement, (i.e, item 15 on the QCase Portal), demonstrating that the First Respondents are aware of this QCAT Proceeding.

**PARAGRAPH 24 OF THE SoC (The Relief)**

8. Given :

- a. that paragraph 24 of the SoC makes a claim pursuant to section 426 (along with other sections), of the RTRA Act; and
- b. the Applicants having to depart the Premises in order to move into a suitable 12 month renewable tenancy for their family home per paragraphs 3 and 3.1 above;

AND THE AGGRAVATING CIRCUMSTANCES :

- c. disturbing the peace & quiet enjoyment of the Premises by the tenants;
- d. the unconscionable and bullying behaviour as set out in the SoC;
- e. refusal to supply a tenancy reference;
- f. the Second Respondent having a culture of telling lies <sup>3</sup>;
- g. the Second Respondent efforts to avoid being named in this proceeding <sup>4</sup>;
- h. the Second Respondent announcing it will not be attending the hearing on 29 August 2023.

AND

- i. the Applicants having now quantified their expenses in regard to the relief claimed at paragraph 24(xi) of the SoC.

8.1 In the above facts and circumstances, the Applicants claim compensation as provided by section 426(4) of the RTRA Act, in the circumstance of section 426(2) of that Act.

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3. Paragraphs 23 to 23.3 of the SoC.

4. Paragraph 4 above and paragraph 23.4 of the SoC.

8.2 The compensation claimed is as follows :

- 2 weeks overlapping rent at the new premises \$1200.00
- Bunnings utility vehicle hire - 3 Days \$ 201.00
- Utility fuel \$ 31.60
- Removalist \$1120.00
- Carpet cleaning & dog fumigation \$ 280.00

**TOTAL**             
**\$2832.60**

8.3 Evidence of the expenses, to be tendered before or at the hearing on 29 August 2023.

8.4 FURTHER, the Applicants continue their application for declarations in the SoC at paragraphs :

24(ii) Declaration the First & Second Respondents engaged in Unconscionable Conduct as has been set out in the SoC;

24(iv) Declaration/s that the First & Second Respondents have contravened sections 246A and/or 292(2) and/or 292(3) of the RTRA Act.

SIGNED:



First Applicant Gordon Craven for the Applicants

DATE:

21 August 2023

# Lease renewal adjustment request

8 Musa Place, Aroona QLD 4551

## Do required changes

Term (  )

## Suggested Rent(s)

#	Type	Rent	Period	Start Date
1	Lease Start	\$ 810.00	Weekly	20/06/2023

Reason:

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**Please Enter Reason**

SEND REQUEST





**Eliza Black** <eliza.black@coronis.com.au>  
Q1363-23

Inbox - janet@gmail.com.au 12:38 pm

To: enquiries@qcat.qld.gov.au <enquiries@qcat.qld.gov.au>, Cc: Gordon <gordon@gmail.com.au> & 2 more

[Details](#)



To whom it may concern

We confirm that the above matter has hearing scheduled for 29 August 2023.

The tenants have supplied our agency with completed Form 13 Notice of Intention to Leave; therefore we will not be in attendance for this hearing

Regards

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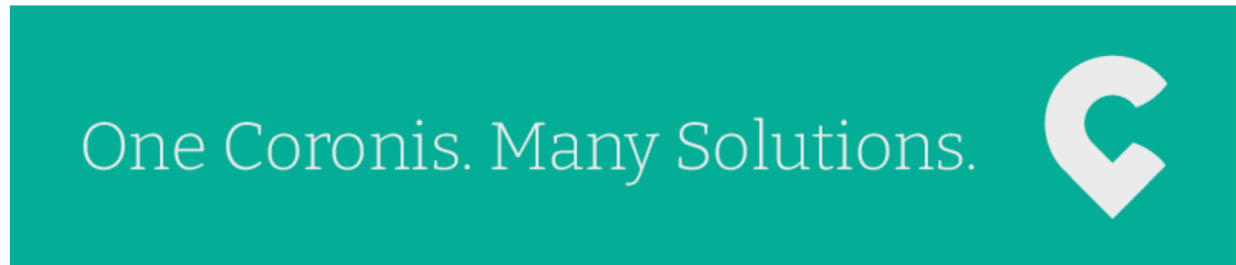
**Eliza Black**

Property Management Team Leader

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