



## Blackburne Property Group fined \$15,000 over bonds

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Perth real estate agency, Blackburne Property Group Pty Ltd, has been fined \$15,000 and ordered to pay Court costs of \$272 in the Perth Magistrates Court for delays in lodging tenants' bond money with the Bond Administrator.

On Friday 9 December 2011, the agency pleaded guilty to 51 charges of late lodgement of security bonds on four occasions between January 2010 and March 2011, which continued despite numerous warnings from Consumer Protection. The funds were held in an agency trust account which was not a tenancy bond trust account as defined in the Residential Tenancies Act. In some cases, the delays extended to more than two months.

Lawyers for Consumer Protection told the Court that, under the Act, bonds must be lodged in a properly designated bond trust account or with the Bond Administrator "as soon as practicable" after receipt from the tenant. In practice, this means as soon as possible or within one business day of receipt of cleared funds.

In a submission to the Court, counsel for the Blackburne Property Group said the delays were due to the unsatisfactory performance of an employee who was having personal problems. The agent's counsel added there was no risk to the funds at any time, there was no dishonesty in the conduct and the breaches were more technical in nature. Further, the agency had made many practical changes to ensure that bonds were lodged within 1-2 days of receipt.

Magistrate Calder did not accept that the breaches were simply technical. In assessing the seriousness of the offending, the Magistrate noted the number of offences and significant period of offending and remarked that it was reflective of inadequate attention given to the need for compliance in this area.

In handing down his decision, Magistrate Calder took into account that there were no prior offences, there had been an early plea of guilty, and that the agency had been co-operative and had taken remedial steps within the organisation so that the breaches would not happen again.

Commissioner for Consumer Protection Anne Driscoll said the outcome of this Court case sent a clear message to all real estate agents, property managers and private landlords to ensure that they comply with the law covering security bonds.

"To ensure that bond funds are kept safe at all times, it is imperative that agents follow the strict procedures that are in place under the law to place the funds in a "special" trust account or with the Bond Administrator within one business day of receiving cleared funds," Ms Driscoll said.