



April 2009

## RentCover Report – we've got you covered

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Welcome to the April edition of the *RentCover Report*.

Thanks to our readers and the fantastic feedback we received from the RentCover survey last month, we have made a number of important changes to the newsletter.

Starting this month, one of the first changes you are likely to notice is that *RentCover Report* is early – in fact it will now be delivered to you on the second Wednesday of each month.



Starting next month we will be featuring a regular segment that answers your questions to common claim queries or misunderstandings.

Many of you also said you wanted to hear more about the important issues facing real estate agents. So this month we're bringing you a story about a recent Supreme Court case in WA involving the misleading conduct of a property owner and real estate agent.

We're also taking a look at the tragedy of the Victorian bushfires and how the insurance industry is responding, and we'll examine the reports suggesting a return of cash flow properties in the residential market. We will also meet James Lording as part of our regular staff profile series.

We hope you enjoy these changes to the newsletter and we look forward to bringing you an even better *RentCover Report*!

**Sharon Fox-Slater**  
General Manager, RentCover

## Fidelity claim exposes audit lapse

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A recent case involving the alleged theft of a significant sum of money from a real estate agent has highlighted the importance of professional indemnity insurance and the potential liability of auditors who are responsible for agent trust accounts.



The case involves an accountant's clerk employed at a Queensland real estate agency. During a period of nine months in 2008, it is alleged that she stole a significant amount of money from her employer.

The agent was protected by EBM with a Professional Indemnity Policy. When they became aware of the clerk's actions, they notified the police and contacted EBM who then advised them of the Fidelity Extension feature of their policy.

Fortunately, the agent was indemnified for its losses and EBM took a robust approach to protecting their client in the subsequent legal proceedings.

As a result of the clerk's conduct, the agent engaged a new trust account auditor to undertake a comprehensive review of its trust and general accounts.

During this process, a number of anomalies with the agent's previous auditors were uncovered. Through investigations, the new auditor discovered that the agent's accounts had only been audited once during the previous 12 months.

The law regarding the liability of auditors arises from both general law and statute. Under section 403 of the *Property Agents and Motor Dealers Act* (the Act), an auditor is required not only to conduct an audit at the end of each 12-month audit period and prepare an audit report based on this 12-monthly period, but *'to make two unannounced examinations of the licensee's trust account during the 12 month audit period'*.

From investigations still underway, it appears that the previous auditors are potentially in breach of the Act and their professional responsibilities to their client. If such a finding was made, it is likely that a court would find that they had incorrectly managed and controlled the agent's trust accounts.

Such a finding could potentially lead to an additional recovery claim against the auditors on behalf of the agent. This could present another avenue of recovery for the agent in light of the total amount misappropriated by the clerk.

As investigations are continuing, we look forward to bringing you further information about this case as it unfolds.

## An appreciation for depreciation

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Starting this month, RentCover will feature a regular segment that focuses on one aspect of property management in greater detail. This month we look at the topic of tax depreciation.



Property tax depreciation is one area of investment that still holds mystery for some landlords. As such, many property owners miss out on potential benefits of their property's depreciation.

EBM General Manager Sharon Fox-Slater said to maximise the tax benefit from depreciation, property investors need the services of a recognised property tax depreciation expert.

“Many investors are still unsure about what benefits tax deduction can provide them and therefore are missing out on their investment property's true potential,” Ms Fox-Slater said.

“To assist our clients, EBM has recently formed an alliance with BMT Tax Depreciation, a specialist firm who provide a wide range of construction cost management services, especially for clients holding or developing property assets.

“This close relationship now allows us to offer our clients expert advice on all aspects of tax depreciation to maximise property tax depreciation deductions from clients' property investments.”

Generally speaking, depreciation describes the decline in value of a property due to general wear and tear. This can include a wide range of items such as carpets, blinds and furniture.

Property tax depreciation is an option for any property owner who obtains an income from their property as assessed by the Australian Taxation Office. This means any property, which is either rented or used for income-producing purposes is eligible to be depreciated, which entitles the owner to claim a tax credit.

There is also a common misconception that only new properties are eligible for tax depreciation. This is not true. While new properties attract higher depreciation rates, older properties can still produce valuable deductions for their owners.

There are different aspects of tax depreciation that come into effect at various stages during property ownership. This can include capital works depreciation, depreciation of plant and equipment such as carpet, blinds, ovens, etc, and any capital improvements made to the property.

A Tax Depreciation Schedule is a professionally-produced document that can help property owners maximise the tax deductibility of their property. This schedule incorporates the value of each depreciable item in the property, including delivery costs, installation costs and other aspects associated with their use.

For more information about this service, call 1800 661 662 or visit [www.rentcover.com.au](http://www.rentcover.com.au).

## NSW offers holidaymakers sun, sand and rules

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In a move that could be replicated throughout Australia, the Real Estate Institute of New South Wales has developed a set of guidelines for renting holiday properties at tourist locations throughout the State.



Releasing the guidelines last month, the REINSW said the guidelines are designed to help improve standards in the holiday and short-term rental market at New South Wales' 160,000 rental properties.

Under the guidelines developed, agents are responsible for property management, access and parking, letting and tenancy agreements, and consumer protection.

Holidaying occupants must be clean and tidy as well as quiet, and temporary occupants must keep noise at 'a reasonable level', must dispose of refuse 'in the allocated bins, and excess rubbish must not be left in public or common areas'.

While not legally binding on member agents, the REINSW say the guidelines have been drawn up to reflect the minimum standards which agents should comply with when working in holiday rental areas and to assist them in meeting the needs of all stakeholders.

In a statement released with the guidelines, the REINSW states,

*"Although the level of complaints is very low, REINSW has developed these guidelines so that there is a clear understanding in the community and amongst agents, visitors and property owners as to the standards of behaviour governing holiday and short term rentals."*<sup>1</sup>

The guidelines also provide an early dispute resolution mechanism to assist agents, visitors and local communities.

EBM Managing Director Jeff Adams said the development of the guidelines reflect the importance of the holiday and short-term rental sector to New South Wales.

"This section of the rental market increasingly affects a large number of stakeholders be they landlords, local residents, local governments and more," he said.

"Any action that can bring about greater cooperation and provide answers to many of the long standing issues in the sector will be welcome by all those involved."

The guidelines can be view from the REINSW website at: [www.reinsw.com.au](http://www.reinsw.com.au).

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<sup>1</sup> Real Estate Institute of New South Wales, Best Practice Guidelines – Holiday and Short Term Rentals, Mar 09.

## Meet a member of the RentCover team...

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This month we meet Gareth Greaves from EBM's RentCover team in Victoria.

James has been with EBM for around seven months now and works as an Assistant Account Manager which involves quoting and processing new business and maintaining current policies along with general administration tasks.



Here are a few other things you might not know about Gareth:

1. **What do you like most about being at EBM?** The people and the friendly atmosphere.
2. **What aspect of your role do you find most rewarding?** It's most rewarding when you meet and exceed the clients' expectations.
3. **When not at work I...** socialise with friends, eat out and watch sport.
4. **If I had a three week holiday planned, I would...** Rio for Carnival.
5. **I like to splurge on...** good food, wine and holidays.
6. **One piece of advice that stays with you** Be good to your mother.



**EBM**  
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