

SEARCHING FOR A TENANCY

There are some rules that apply before a tenancy even begins. This includes rules about how properties are advertised for rent and rules about how landlords and agents can behave when discussing the rent for a property with a prospective tenant. This section of the Renting Book discusses these rules.

RENTAL ADVERTISEMENTS

When a property is advertised for rent there are rules about what information the rental ad **must contain** and rules about what **it must not contain**. These rules are meant to make sure that you have information to decide if the property is right for you.

All ads for a rental property **must**:

- > Indicate the [Energy Efficiency Rating](#) (EER) for the property, if the property has an EER rating
 - ❖ If there is no EER rating, the ad must say that there is no EER rating.
- > Indicate if the proposed tenancy agreement contains certain **special conditions**, including:
 - ❖ Any terms that are [inconsistent with the standard terms](#) (noting these must be endorsed by ACAT to be valid).
 - ❖ If the tenant will be required to seek the landlord's consent before being able to [keep a pet](#).
- > Indicate if the premises are an [adaptable housing dwelling](#) (a premises that is designed so that it can be easily modified to make it accessible for individuals with disabilities or progressive frailties).
- > Indicate whether the premises comply with the [ceiling insulation standard](#), or, if an exemption applies.
- > Indicate the **rental rate** (i.e. the weekly rent) for the property.
 - ❖ Note: It is possible for the ad to indicate different rental rates for the property if the rate depends on what is included with the property (e.g. if the property is furnished / unfurnished or if the property comes with / without a car space or storage area).

The person publishing the ad **commits an offence** if they do not include the required information in the ad. See the section on [penalties](#) for more information.

When an ad for a rental property is published it **must not**:

- > advertise the property *without* a rental rate,
- > advertise *with* a rent range (e.g., '\$500-\$600/ week' or '\$500 ono/ week')
- > advertise the property in a way that invites rent bidding (e.g., 'by negotiation' or 'offers accepted').

RENT BIDDING

'Rent bidding' is where a person wanting to rent a property offers to pay more rent than the advertised amount.

It is an offence for landlords, agents or rental application databases (e.g. apps) to ask you to bid more than the advertised rental price for a property. However, you can choose to offer to pay more for a property if you want to.

If you voluntarily offer to pay a higher amount than the advertised rent, a landlord is allowed to accept your offer.

Remember that the landlord or agent may be constrained in what they can say to you as they are not allowed to encourage rental bids. For example, they should not proactively tell you that other tenants have made a higher bid on the property as this may be seen as encouraging you to make a higher offer.

The scenarios below provide some examples of conversations that might happen and how rent bidding laws would apply.

Scenario 1

A prospective tenant approaches a landlord or agent and says "I would like to offer \$10 per week above the advertised price for the property".

Landlord or agent responds: "Thank you for that offer. I will pass it on to the landlord and it will be considered when assessing rental applications."

Comment: This response complies with ACT rent bidding laws as landlords are allowed to accept rent price offers made voluntarily by tenants.

Scenario 2

A prospective tenant asks if anyone has offered more than the advertised price for the property / more than an amount they have just offered.

Landlord or agent responds: Under ACT tenancy laws I am not allowed to encourage a person to offer more than the advertised rent. Answering that question may be considered to be encouraging a rental price offer. Under ACT laws tenants are not prevented from offering more than the advertised price if they do so voluntarily.

Comment: This response complies with ACT rent bidding laws as it states the law but does not encourage the tenant to offer a rent bid by informing them about other rental bids.

Scenario 3

A prospective tenant asks a real estate agent or landlord "If I offer more rent, would I have a better chance of securing the property?"

Landlord or agent responds: Under ACT tenancy laws I am not allowed to encourage a person to offer more than the advertised rent for the property. The law does not prevent tenants from volunteering to pay more. Applications are judged on multiple factors and the rent is not the only criteria used when evaluating an application.

Comment: This response complies with ACT rent bidding laws as it states the law but does not encourage the tenant to offer a rent bid.

Scenario 4

An applicant missed out on a rental property and asks why. The landlord or agent informs the tenant that the successful applicant had offered a higher rent. The unsuccessful applicant is unhappy and asks “Why didn’t you tell me that someone else had made a higher offer?”

Landlord or agent responds: Under ACT tenancy laws tenants are able to offer more than the advertised price where they do so voluntarily. However, I am not allowed to encourage a person to offer more than the advertised rent for the property. Informing you about other offers in relation to a property may be considered to be an invitation to you to offer a higher amount so I was unable to inform you of other rent offers.

Comment: This response complies with ACT rent bidding laws as it states the law and informs the tenant why they could not be advised of other rental bids.

Scenario 5

At a rental property inspection, the landlord or agent proactively informs each prospective tenant that tenants can offer amounts above the advertised price when making a rental application.

Comment: This conduct does not comply with ACT tenancy laws as by proactively raising the question of rent bidding (without responding to a question or offer voluntarily made by the tenant), the landlord or agent may be considered to be encouraging rental bids.

Scenario 6

A prospective tenant calls the landlord or agent to ask about the progress of their application but does not offer to pay additional rent when inquiring about their application. The landlord or agent replies: “Someone has made a higher offer on the property so the landlord is considering that application first.”

Comment: This statement does not comply with ACT tenancy laws. This is because proactively raising the question of rent bids (without responding to a question or an offer voluntarily made by the tenant), may be considered to be encouraging a rental bid.

Scenario 7

A landlord has several applications to choose from, one of which has offered to pay an additional \$10 per week. The landlord asks the agent to go back to another applicant to see if they will match or offer more.

Agent replies: Under ACT tenancy laws tenants are able to offer more than the advertised price where they do so voluntarily. However, I am not allowed to encourage a person to offer more than the advertised rent for the property.

Comment: This response complies with ACT rent bidding laws as it states the law but the agent does not encourage a tenant to offer a higher rent.