

Public DEFENDER

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John Rolfe

The people we have helped



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Please help!

I need some legal advice

Will we lose our home?

BOB asks: My father has a will leaving his assets to his three children. Unfortunately my sister has recently become estranged from her siblings. Currently we all live in the

Have your legal queries answered on our blog with Maurice Blackburn legal expert Rebecca Gilsean at noon today



family home with our parents. My sister, though, has a fiance and is likely to move to her own home soon. My brother and I do not have the finances to afford to move or to contribute to the household bills and expenses. Can our sister force us to sell to divide the property? We would like to continue living at home. Dad's will was written many years ago and my sister is executor.

THE first issue is how the family house is owned. If your mother and father own it jointly, then when your father dies the house goes to your mother, bypassing your father's will. If the house is owned solely by your father, depending on the terms of his will, your sister (as executor) may have the option to sell the property and distribute the proceeds. Or the property could be transferred to all three children equally, or one or more of you could buy out the other. It is possible for your father to specify that you and your brother can continue to live in the family house.

Legal information is general in nature and not to be regarded as legal advice by Maurice Blackburn

Single mum caught in rent trap

AT 4am on November 20 last year, Lucinda Hargrave's Sydney home caught fire.

Ms Hargrave — then pregnant with her third child — and her daughters escaped through a bedroom window.

"But I lost everything," Ms Hargrave said.

The saving grace, she thought, was that her fridge, dryer, washing machine and freezer would be replaced because they were rentals insured from 2004.

A week after the fire Ms Hargrave walked to a payphone and rang Mr Rental Campbelltown. Having just moved into another house in Airds, she was anxious to begin the process of replacing the appliances she needed to look after Caitlyn and Emily, now seven and four.

She was told there would be no replacement. The insurance only covered the rental provider.

And anyway, she had owned the washing machine, fridge (supplied damaged) and freezer since 2008.

Ms Hargrave collapsed. A year on, recounting these events still brings her to tears: "I'm a single mum trying to survive. Why are they doing this to me?"

Rental contracts from 2004 and 2005 clearly show she was paying insurance. But an otherwise identical piece of 2007 paperwork substitutes with the words "liability waiver fee".

Mr Rental, which has 17 NSW and ACT stores, claimed it sent a letter to Ms Hargrave in August, 2008, telling her she owned the washing machine, fridge and

freezer. Ms Hargrave told me she did not receive the letter.

Mr Rental charged her after that date — \$50 per fortnight for a dryer and DVD player.

The 2007 dryer contract says the rate was \$8 plus \$2 liability waiver. According to Mr Rental there was a verbal agreement to more than double this rate in 2008. There were lots of verbal agreements.

No rate for the DVD player is ever specified on a contract. Ms Hargrave told me it was offered for free, part of a "rent three, get one free" offer.

By my calculations, from August, 2008, to November, 2009, Ms Hargrave paid at least \$924 for that 2005 model DVD player, one she thought was free.

Mr Rental said it would refund Ms Hargrave \$132 for a miscalculation. I think they should refund her the \$924 on the DVD player, too.

Mr Rental general manager Alan Payne said: "We not only honoured the terms of our agreements, we have honoured the spirit of the agreements."

Ms Hargrave said: "I sent friends to Mr Rental. Now I feel sick." NSW Fair Trading is investigating.



Burnt: Lucinda Hargrave goes through the painful paperwork

Picture: Stephen Cooper



Compensation is more than just a number.

An extra ten percent on your compensation agreement could mean the difference between being able to pay your mortgage or rent, or living with the stress of trying to keep your own home. Which is why we'll fight hard for that bit extra, to get you a long-term solution not just short-term assistance. Because at Maurice Blackburn, we fight for fair.

We fight for fair.™

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