

End of Tenancy

Overview

This policy explains how we will end tenancies and meet our legal duties.

Scope

This policy applies to Muslim care which ensures that we comply with this policy

Our promise

We will:

- Tell our tenants about their rights and responsibilities when we give them notice to end their tenancy or start legal action that may end their tenancy.
- Tell our tenants how they can access advice about their tenancy and make sure that they have access to interpreters if needed.
- Meet our legal duties when ending a tenancy and dealing with goods that our tenants leave behind.

How a tenant can end their tenancy?

If a tenant wants to end their tenancy agreement, they must give us the amount of notice required by law. The amount of notice needed will depend on the type of tenancy agreement e.g. fixed term or periodic agreement or the reason for the termination e.g. termination due to circumstances of domestic violence. More information about minimum notice periods can be found on the Fair Trading website.

We may agree to accept a shorter notice period from our tenant. The decision to accept a shorter notice period must be approved by the relevant Team Leader or Head of Region, Customers and Communities.

If a tenant breaks a fixed term lease, we may charge a break fee as permitted by law. The decision to charge a break fee is approved by the Head of Region, Customers and Communities.

When a joint tenancy is ended by one tenant, we will terminate the tenancy and make arrangements with the remaining tenant. This could include signing a new tenancy agreement for the current property or transferring the remaining household to a more suitable property.

When we might end a tenancy

We may decide to end a tenancy for a number of reasons as outlined below.

The tenant has breached the rules of their Residential Tenancy Agreement

We will support the tenant to fix any issues before we decide to end a tenancy. We will only end a tenancy when our tenant has broken the rules of their tenancy agreement more than once, where there is a serious breach of the tenancy agreement or when there is violence to other people or serious property damage.

Management reasons

We may ask a tenant to move from their current property for management reasons which could include:

- Under/Over Occupancy - The number of people living in the household isn't suitable for the property
- We need that property to house another person. For example, if the property was modified for wheelchairs and the current occupants didn't need that type of property.
- We need to develop, sell or renovate the property
- We need to return the property to the landlord/owner
- If we identify a specific housing need or risk for the tenant

If we need to end a tenancy due to management reasons, we will give the tenant 2 offers for housing that meets their needs. We may also help with the cost of moving (see our Housing Transfer policy for more information). We will always try to transfer tenants by agreement. However, if a tenant declines 2 suitable offers for other housing, we will take legal action to end the tenancy at the NCAT.

If we end a tenancy because we have offered our tenant another property and they haven't accepted it, we will follow the process required by law. This will include telling our tenant that they can apply for a review of our decision. If our tenant applies for a review of our decision, our Head of Region will review the decision within 7 days. We will also ask the Housing Appeals Committee (HAC), our second tier reviewer, to review the decision and give us their recommendation within 7 days.

There may be occasions when we will issue a 90 day, no grounds notice. We will only issue these notices in the following circumstances:

- Our head tenancy in a leasehold property has ended and we need to return the property to the landlord/owner.
- If the tenant no longer meets the eligibility guidelines for a specific housing program (except where tenancies can be ended under the social housing eligibility clause under section 143 of the Act).
- In exceptional circumstances when approved by the General Manager, Customers and Communities.

When we end a tenancy with a 90 day, no grounds notice, we will make sure that we follow procedural fairness by:

- Giving the tenant an opportunity to be heard (this includes allowing the tenant to make written or verbal submissions) and
- Making sure that all decisions are made fairly and without bias.

If we end a tenancy because the tenant is no longer eligible for a particular housing program, the tenant has the right to appeal our decision about their eligibility. Refer to our Eligibility policy for more information.

The tenant has abandoned the property

If a tenant has abandoned their tenancy, we may take immediate possession of the property or make an application to the NCAT to have the tenancy terminated. If we have reason to believe that a tenant has abandoned the property but are unsure, we may place a notice at the property, and give the tenant 14 days to contact us or make an application to NCAT.

An apprehended violence order (AVO) has been made

If a final AVO stops a tenant from accessing their property, the tenancy for that person is terminated. This doesn't end the tenancy of any other tenants who live in the property.

Death of a tenant or household member

If a tenant or household member dies, it must be reported to us as soon as practical.

When a tenant dies, the landlord or the tenant's legal representative can give notice to the other person. The termination date can be before the end of the fixed term for fixed term agreements.

If we give a tenant's legal representative a notice of termination, they can give us vacant possession at any time before the date specified in the notice of termination. Generally, we will only charge rent up until the date the tenant died. The legal representative will be responsible for maintaining the tenancy until vacant possession is given.

We understand that there may be cultural or religious reasons why the legal representative of the deceased tenant needs to keep possession of the property for a period of time after the tenant's death. We will consider these requests on a case by case basis. The legal representative must tell us the reason for wanting to keep possession of the property. If approved, the normal rent must be paid until the property is vacated and returned to us.

There may be times when we seek costs for damage or other monies owed to us from an estate. These situations will be managed on a case by case basis as decided by the General Manager, Customers and Communities.

If the tenant dies and there are other authorised household members living in the property, they may apply to take over the tenancy under our Succession of Tenancy policy.

The tenant is no longer eligible

Some types of housing limit how long a tenant can live in a property or have certain rules that a tenant must meet to be able to continue to live in the property.

If a tenant isn't eligible to live in the property anymore, we will end the tenancy.

The tenancy agreement is frustrated

If a property is, for reasons other than a breach of tenancy, destroyed or uninhabitable as a residential premise (for example due to a fire, flood or natural disaster) or is bought by a government agency, the tenant or us can give notice to the other party to end the tenancy agreement. The notice may end the tenancy on the date that the notice was given.

If we end a tenancy for these reasons, we may provide suitable alternative housing to the tenant.

Ending a tenancy

We will always meet our legal duties when we are giving notice to end a tenancy.

We will give notice to end the tenancy in writing. The notice will be sent in the mail, hand delivered or put in the person's mailbox. If the tenant has nominated an email address for service, we will serve notices by email to the email address provided.

If the tenant doesn't move out by the date given on the notice, we will ask the NCAT to end the tenancy and to order the tenant to move out of the property. The decision to apply to the tribunal to terminate a tenancy must be approved by the Head of Region, Customers and Communities.

If the tenant doesn't move out by the date ordered by the tenancy tribunal, we will apply for a warrant for possession of the property. The decision to apply for a warrant by the General Manager, Customers and Communities.

End of tenancy cleaning and repairs

The tenant is responsible for returning the property to us in the condition that it was in at the start of the tenancy (apart from fair wear and tear). After we do an end of tenancy inspection, we will talk to our tenant about any damage, cleaning issues, or unauthorised changes to the property. We will give our tenant a chance to fix any issues or clean the property. We will charge a daily fee for each day that the tenant has possession of the property. If the tenant doesn't fix the issues, we will get a contractor to do the work and will charge the tenant for the work.

Final rent payment

The tenant is required to pay rent until the date that the property is handed back.

Money owed to us at the end of a tenancy

When a tenancy ends, if we are owed more than \$1,000 for rent arrears, debt, or the cost of end of tenancy cleaning, gardening, repairs, we will apply to the tenancy tribunal for an order for compensation and will ask for a certified copy of those orders. If the amount owed is higher than the limit of the tenancy tribunal, we may take other legal action to recover the money owed.

For affordable housing, we will apply our Affordable Housing policy when dealing with money owed to us.

We may record the debt of a former tenant on the NSW Housing Register where we are allowed by law.

Goods that our tenants leave behind

We will meet our legal duties when managing goods that a tenant leaves in the property.

We will throw away any rubbish and perishable items that are left behind when a tenant gives us back a property or abandons a property.

For other goods of value and personal documents, we will give notice as required. If the goods are not collected within the timeframe given in the notice, we will meet our legal duties when dealing with uncollected goods. More information on uncollected goods can be found on the Fair Trading website.

Feedback from our tenants

We will ask tenants for feedback when they leave our service. We will use any feedback we receive to help us to improve our service.

References

We will provide rental references on behalf of tenants or ex-tenants seeking accommodation on the private rental market, where the tenancy has been satisfactory. References will only include information in relation to the below:

- Rent and other charges (e.g. water) paid on time
- No property care issues

- No breaches of tenancy

Appeals

Tenants may be able to appeal some decisions about end of tenancy. Our Appeals policy has more information about appeals.

Relevant legislation, regulations or standards

- Residential Tenancies Act 2010 (NSW)
- Uncollected Goods Act 1995 (NSW)
- Fair Trading- Uncollected Goods
- Fair Trading- Ending a Tenancy

Policy information

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