

# End of Tenancy Policy

---

## Purpose

The purpose of this policy is to set out Housing Trust's approach in relation to ending a tenancy.

## Policy

Housing Trust acknowledges that tenancies can end for a range of reasons either voluntarily through notice or by way of an order of the NSW Civil and Administrative Tribunal (NCAT).

While NCAT action and eviction may be necessary in some circumstances Housing Trust will always aim to support vulnerable tenants to sustain their tenancies. In ending a tenancy Housing Trust will:

- comply with the requirements of the Residential Tenancies Act 2010
- provide clear advice about what is expected of tenants to meet their responsibilities, regardless of how the tenancy ends
- advise tenants of their rights and responsibilities when a notice of termination is issued and when legal action is taken in the NSW Civil & Administrative Tribunal (NCAT)

## Tenancy terminated by the Tenant

When a tenant wishes to end a residential tenancy agreement they must provide Housing Trust with written notice in accordance with their lease.

When one tenant passes away in a co-tenancy arrangement, on receipt of the copy of the death certificate, the lease agreement in both names will be amended to the name of the remaining tenant and signed.

When one tenant in a co-tenancy leaves the property permanently the lease agreement in both names will be amended to the name of the remaining tenant.

## Succession of a Tenancy

Succession of tenancy occurs when Housing Trust agrees to transfer a tenant's right to live in a Housing Trust property to another person. Succession of a tenancy when a resident permanently leaves a property or where there is a death of a tenant will be considered in accordance with Housing Trust's tenancy succession policy. *Refer to the Housing Trust's Succession Policy.*

## Tenancy ended by the Housing Trust

A tenancy may be ended by Housing Trust in accordance with the Residential Tenancies Act 2010 for a range of reasons. Where Housing Trust ends a tenancy, Housing Trust will comply with the relevant notice procedures and time periods as outlined in the Residential Tenancies Act 2010, and will also provide support and assistance to the tenant.

Housing Trust may end a tenancy for a number of reasons which may include but not be limited to:

- breach of residential tenancy agreement - where a breach is serious, persistent and/or ongoing, involves serious property damage, and/or involves risk of violence to others including Housing Trust staff. Refer to the Housing Trust's Antisocial Behaviour Policy.
- non-payment of rent, water or tenant damage maintenance
- abandonment of the property. Refer to the Housing Trust's Abandoned Premises Policy.
- death of a tenant. Refer to the Housing Trust's Death of a Tenant Policy.
- unauthorised use of the property
- end of a fixed term leasing arrangement
- changes to tenant eligibility
- program changes made by regulating or funding bodies
- transfer relocation or mutual exchange
- if a property becomes uninhabitable or is destroyed

When Housing Trust appears at NCAT as landlord the objective is to maintain the tenancy whenever an acceptable performance agreement can be reached with the tenant. However, Housing Trust may seek an order terminating a tenancy even when a tenant is willing to make an agreement if there are repeated un-remedied breaches by the tenant or if violence or property damage is an expected outcome of continuing the tenancy.

## End of Tenancy under Section 85 of the Residential Tenancies Act

Under Section 85 of the Residential Tenancies Act 2010 Housing Trust may apply for a ninety (90) day *no grounds* termination of a periodic tenancy agreement. Housing Trust acknowledges the use of a *no grounds* notice is a last resort, and that in almost all circumstances other sections of the Act will be used to seek appropriate orders. Housing Trust will only issue a notice of termination under Section 85 of the Residential Tenancies Act 2010 where the Housing Trust has received a Section 85 notice of termination from a landlord and a suitable alternative property cannot be located or where a tenant refuses to relocate.

A Section 85 *no grounds* termination can only be issued in accordance with the delegated authority.

## Possession of Premises

Where a tenancy is ended, the tenant is required to provide vacant possession:

- on the date specified in the notice of termination
- or as otherwise mutually agreed
- or as determined by orders in the NSW Civil and Administrative Tribunal (NCAT)

## Housing Trust responsibilities at end of Tenancy

Where a tenancy is to be ended, Housing Trust will:

- give the tenant reasonable opportunity to undertake any cleaning, minor repairs, garden maintenance etc that they will otherwise be charged for if not done
- charge rent or an occupation fee up until the date that vacant possession is provided
- compare the current condition of the property against the ingoing condition report, and charge the tenant for costs associated with reasonable cleaning and tenant damage to the property (minus wear and tear) in line with the Australian Tax Office (ATO) depreciation schedule where applicable
- claim the tenant's bond to cover any property-related expenses
- take action in NCAT to register any tenant debts outstanding above the bond amount
- advise ex-tenants that an unpaid debt with a public or community housing provider may prevent their future access to social housing

Housing Trust will provide tenants with every opportunity to attend a joint end of tenancy inspection where the Property Condition Report is filled out in conjunction with the tenant. The tenant is responsible for returning the property in the condition that it was in at the start of the tenancy (excluding fair wear and tear) and reasonably clean. If a tenant is provided the opportunity to return to the property to undertake works or cleaning this must take place within a timeframe agreed with the Housing Trust and may include the reinstatement of the tenancy.

If the tenant declines the opportunity to rectify the cleaning, gardening or repairs, then Housing Trust will engage a contractor(s) to carry out the works required and the costs will be claimed back from the tenant, via their bond or if the debt is larger than the bond amount then NCAT orders will be applied for.

## Goods left in the Premises

Housing Trust will dispose of goods left in premises in accordance with the Residential Tenancies Act 2010.

## Right of Appeal

If a tenant believes Housing Trust has made a wrong decision in relation to end of

tenancy a formal review of the decision should be requested. To do this, the tenant is required to complete a Housing Trust Appeals Form stating why they disagree with the decision. Housing Trust's Appeals Policy and form is available by contacting the Housing Trust office or alternatively, may be downloaded from our website: [www.housingtrust.org.au](http://www.housingtrust.org.au).

If the appellant is not satisfied with the outcome of the internal appeal they can make an appeal to the Independent Housing Appeals Committee (HAC). HAC is an independent appeals agency for all NSW Social Housing clients.

Housing Trust will advise the appellant on how to lodge an appeal with HAC. Alternatively HAC may be contacted directly by visiting <http://www.hac.nsw.gov.au> or by calling 1800 629 794.

## Reference or Related Documents

### Internal Documents

1. End of Tenancy Insurance Flowchart
2. Abandoned Property Policy
3. Antisocial Behaviour Policy
4. Death of a Tenant Policy
5. Succession Policy
6. Appeals Policy
7. Form 106001 Review of decision and 1st tier appeal

### External Documents

1. Residential Tenancies Act 2010

## Policy Version Control

Version	Details of Improvements	Release Date	Approval/Release Details
V 1.0	Original policy in Housing Trust's Policy Manual 2009		
V 2.0	Reviewed	07.09.2017	Approved for release by GM:C&C
V 3.0	Reviewed and updated to include how Housing Trust will use Section 85 - no cause eviction of the current Residential Tenancies Act 2010 No 42 dated 01.07.18 with no change to policy intent	22.08.2018	Approved for release by Amanda Winks Chief Housing Officer