

You want to leave

As a tenant you have rights under the *Residential Tenancies Act 2010* and *Residential Tenancies Regulation 2010*. This factsheet explains the law in NSW about ending a tenancy.

Questions to answer

- What type of tenancy agreement do I have?
- What is the reason for ending my tenancy?

The reasons for which you can end your tenancy ('terminate') depend on the type of agreement. What action to take depends on the reason (if any).

- Am I a co-tenant? If so, also see 'Terminating a co-tenancy' at the end of this factsheet.

Types of tenancy agreement

There are two types (check your tenancy agreement under 'Term' or 'Term of agreement'):

- fixed-term – for a specified term (e.g. 6 months)
- periodic – the fixed term has expired or is not specified.

Reasons for termination

You can terminate:

- without a reason
- for a legally specified reason.

See the table below and explanations that follow.

What action to take

In most cases, you give the landlord/agent a written *termination notice* and 'vacate' – move out and return the keys – according to your notice. You can vacate before the date in your termination notice but keep paying rent until the end of the notice period.

In some cases, you apply to the NSW Civil and Administrative Tribunal (NCAT) for a *termination order*. If the tribunal makes the order, it will end your tenancy agreement and specify the day by which you must vacate.

The termination notice

A termination notice must be in writing, signed by you and say:

- the address of the premises
- the day by which you will vacate
- the reason (if any).

You must properly send or deliver the notice to the landlord/agent: in person, by post, by fax, or by hand in an addressed envelope to a mailbox at their home or business address.

Keep a copy of the notice and record how and when you sent or delivered it.

For minimum notice periods, see the table below. If you post a notice, you must add 7 working days for delivery.

You can withdraw a termination notice at any time with the landlord's (and any co-tenants') consent.

Reasons, actions and minimum notice

Reason	Action	Minimum notice
Fixed-term agreement		
No reason at end of term	Give notice	14 days ^[1]
Breach of agreement	Give notice	14 days
	Apply to tribunal	not applicable
Premises unusable	Give notice	none
Rent increase ^[2]	Give notice	21 days
Extraordinary ground	Give notice	14 days
Hardship	Apply to tribunal	not applicable
Periodic agreement		
No reason	Give notice	21 days
Breach of agreement	Give notice	14 days
	Apply to tribunal	not applicable
Premises unusable	Give notice	none

Notes:

1. Termination date can be the last day of the fixed term or up to 14 days after.
2. Only when the landlord/agent has increased the rent during a fixed term of 2 years or more.

Terminating without a reason

Factsheet 16: *Ending tenancy early* discusses how to end your tenancy for no reason during the fixed term

Fixed-term agreement – end of term

Give a minimum 14-day termination notice. The termination date in the notice can be the last day of the fixed term or up to 14 days after. Vacate by the date in your notice.

Periodic agreement

Give a minimum 21-day termination notice. Vacate by the date in your notice.

Breach of agreement

A *breach of agreement* by the landlord/agent is a failure to meet their obligations under the tenancy agreement. Talk to your local Tenants Advice and Advocacy Service about which of the following actions to take.

Alternative to terminating

Apply to the tribunal for an order that the landlord/agent fix the breach (e.g. they do repairs you have requested) or that they stop breaching the agreement (e.g. they stop interfering with your privacy).

Giving a termination notice

Give a minimum 14-day termination notice that says it is for breach of agreement.

The landlord/agent may apply to the tribunal to dispute your notice. If the tribunal finds that the landlord/agent has fixed the breach, it may cancel your notice and the tenancy will continue, or order you to pay compensation.

Applying for a termination order

You must apply within 3 months after you become aware of the breach. The tribunal may make the order if it finds that:

- a) the landlord/agent breached the agreement, and
- b) the breach is sufficient to justify termination.

When deciding (b), the tribunal will consider: the nature of the breach, any previous breaches, whatever the landlord/agent did to fix the breach, whatever you did about the breach and the history of the tenancy.

If the tribunal refuses to make the order, the tenancy will continue.

Premises unusable

Give an immediate termination notice and vacate if the premises:

- are destroyed or become wholly or partly unlivable (other than due to breach of agreement), or
- can no longer be lawfully used as a residence, or
- are acquired by compulsory process (e.g. the government takes the land to build a freeway).

Rent increase in a 2-year or more fixed term

Give a minimum 21-day termination notice and vacate. The notice must say that it is because the landlord/agent has increased the rent during the fixed term.

Extraordinary grounds

Give a minimum 14-day termination notice on any of the following grounds:

- You have been offered and accepted a place in social housing.
- You need or have accepted a place in an aged-care facility.
- The landlord wants to sell the premises and they did not tell you this before you started the tenancy.
- A co-tenant or occupant or former co-tenant or occupant has been excluded from the premises by a final apprehended violence order.

Vacate according to your notice. You will not have to pay the landlord compensation for terminating early.

Hardship

Apply to the tribunal to terminate your fixed-term agreement if there are special circumstances and continuing the tenancy would cause you undue hardship.

The tribunal will consider evidence of your circumstances (e.g. finances or health) and the landlord's circumstances. If it makes the order, it may also order that you compensate the landlord.

Terminating a co-tenancy

All co-tenants leaving

All must jointly give the landlord a 21-day termination notice in a periodic agreement, or a 14-day termination notice for the end of a fixed-term agreement (see 'Terminating without a reason').

One co-tenant leaving

During a periodic agreement, a co-tenant can end their own tenancy by giving a 21-day termination notice to the landlord and each other co-tenant. Once they vacate by the date in the notice, they are no longer a tenant under the agreement.

During a fixed-term agreement, a co-tenant can try:

- applying for a termination order to end their own tenancy in special circumstances, or
- transferring their tenancy to another person – see Factsheet 18: *Transfer and sub-letting*.

Get advice from your local Tenants Advice and Advocacy Service.

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For free tenancy advice, call your local Tenants Advice and Advocacy Service:

SYDNEY:

- Eastern 9386 9147
- Inner 9698 5975
- Inner West 9559 2899
- Northern 9559 2899
- Southern 9787 4679
- South West 4628 1678
- Western 8833 0933

REGIONAL:

- Blue Mountains 4704 0201
- Central Coast 4353 5515
- Hunter 4969 7666
- Illawarra Sth Coast 4274 3475
- Mid Coast 6583 9866
- Northern Rivers 6621 1022
- Northwest NSW 1800 836 268
- Southwest NSW 1300 483 786

ABORIGINAL:

- Sydney 9833 3314
- West NSW 6881 5700
- South NSW 1800 672 185
- North NSW 1800 248 913

WEBSITE: tenants.org.au

NSW FAIR TRADING: 13 32 20

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