

# You want to leave

As a tenant you have rights under the *Residential Tenancies Act 2010* and *Residential Tenancies Regulation 2019*. This factsheet summarises the law in NSW about how a tenant can end 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 depend on the type of agreement. The action to take depends on your 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 – (ongoing) the fixed term has expired or isn't specified

## Reasons for terminating your tenancy

You can end your tenancy ('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 ('give vacant possession') – 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 & 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 email (to an email address specified by the agent for documents of that kind), or by hand in an addressed envelope to a mailbox at their home or business address.

## Reasons, actions and minimum notice

Reason	Action	Minimum notice
<b>Fixed-term agreement</b>		
No reason at end of term	Give notice <sup>[1]</sup>	14 days
Breach of agreement	Give notice	14 days
	Apply to Tribunal	Not applicable
Premises unusable	Give notice	None
Rent increase <sup>[2]</sup>	Give notice	21 days
Extraordinary ground	Give notice	14 days
Hardship	Apply to Tribunal	Not applicable
Domestic Violence	Give notice	None
Breach of disclosure requirements	Give notice	14 days
	Apply to Tribunal	Not applicable
<b>Periodic agreement</b>		
No reason	Give notice	21 days
Breach of agreement	Give notice	14 days
	Apply to Tribunal	Not applicable
Premises unusable	Give notice	None
Domestic Violence	Give notice	None
Breach of disclosure requirements	Give notice	14 days
	Apply to Tribunal	Not applicable

### Notes:

1. This notice can be given on or before the last day of the fixed term.
2. Only when the landlord/agent has increased the rent during a fixed term of 2 years or more.

## Terminating without a reason

### Fixed-term agreement – at 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. You have to give this notice before your fixed-term agreement ends. Vacate by the date in your notice.

See Factsheet 16: *Ending fixed-term tenancy early* for **how to end your fixed-term tenancy early** – i.e. for no reason during the fixed term

### Periodic agreement

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

## Terminating due to 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.

## Terminating due to premises being unusable

Give an immediate termination notice and vacate if the premises:

- are destroyed or become wholly or partly unlivable (for example due to fire or flood, not 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)

## Terminating due to a 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.

## Terminating due to extraordinary grounds during a fixed term

In some situations, you can break your fixed term agreement without compensation to the landlord by giving a minimum 14-day termination notice. These situations include being offered a place in social housing or aged-care; if the landlord wants to sell the premises and did not tell you this before you started the tenancy, or if the premises are listed on the loose-filled asbestos register.

For more on these extraordinary grounds, see Factsheet 16: *Ending fixed-term tenancy early*

## Terminating due to hardship

If there are special circumstances and continuing the tenancy would cause you undue hardship, you can apply to the Tribunal to terminate your fixed-term agreement.

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 due to domestic violence

If you are the victim in circumstances of a domestic violence, you can give an immediate domestic violence termination notice. You may do this whether you are in a fixed-term or periodic agreement. If there are other co-tenants in the tenancy, you must also serve the termination notice on them.

There are additional requirements about what needs to be included in your termination notice on this ground. Get advice from your local Tenants' Advice and Advocacy Service. See also Factsheet 12: *Domestic Violence*

## Terminating due to breach of disclosure requirements

If your landlord/agent failed to disclose to you material facts prescribed by legislation prior to you entering the agreement, or if they made false representations to induced you to enter into the agreement, you can either:

- Give a minimum 14-day termination notice that says the landlord has breached disclosure requirements. The landlord/agent may apply to the Tribunal to dispute your notice. If the Tribunal does not agree that the landlord/ agent has breached the disclosure rules, it may cancel your notice and the tenancy will continue, or order you to pay compensation.
- Apply to the Tribunal for a termination order and compensation because you suffered loss as a result of the landlord/agent's contravention of the disclosure rules (e.g. costs of relocation). The Tribunal will determine whether the breach of the disclosure rules

are, in the circumstances of the case, sufficient to justify termination.

For a list of the prescribed material facts that the landlord/agent must disclose to you, see Factsheet 2: *Starting a Tenancy*

## Terminating a co-tenancy

### If all co-tenants are 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' above).

### If one co-tenant is 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*

### Domestic violence and co-tenancy (after the victim has ended the tenancy)

If you are the remaining co-tenant in a fixed-term agreement after another co-tenant has terminated their tenancy due to domestic violence; and you are not the relevant domestic violence offender; you can apply to the Tribunal to end your tenancy.

Get advice from your local Tenants' Advice and Advocacy Service.

*Factsheet updated: March 2020*

**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](http://tenants.org.au)

**NSW FAIR TRADING:** 13 32 20

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