

Goods left behind

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 goods left behind on rented premises.

Landlord may dispose of goods left behind

If you leave goods behind on the premises at the end of your tenancy, the landlord/agent may dispose of them after giving you correct notice.

The end of your tenancy means you have given the landlord *vacant possession* of the premises (you have moved out and returned the keys).

The following also applies if you have abandoned the premises (e.g. you leave and stop paying rent without notice to the landlord).

The *Residential Tenancies Act 2010* sets out the process that a landlord/agent must follow when dealing with goods left behind and how they may dispose of them.

Types of goods

'Goods' includes:

- 'ordinary' goods
- personal documents
- perishable goods and rubbish

The landlord/agent may dispose of perishable goods or rubbish at any time without notice.

Personal documents include:

- a birth certificate, passport or other identity document
- bank books, financial statements or documents
- photographs and other personal memorabilia
- licences or other documents conferring authorities, rights or qualifications.

Correct notice of disposal

The landlord/agent must give you notice that, unless you claim them:

- ordinary goods will be disposed of after 14 days
- personal documents will be disposed of after 90 days.

The landlord/agent may give you notice:

- in writing
- by post to your forwarding address (they must allow 4 working days for delivery)
- orally in person or by phone.

If after 2 days the landlord/agent is unable to give you notice by the above means, they must post a notice in a prominent place on the premises (e.g. on the front door).

Claiming goods before disposal

You (or another person entitled to them) may collect the goods from the landlord/agent at any (mutually agreed) time. The landlord/agent:

- must return the goods
- can charge you an *occupation fee* (see below)
- cannot require payment of any other amount

Write to the landlord/agent to claim the goods and to arrange a time to collect them. Include times and dates when you are available and give the landlord/agent a date by which to respond.

Ensure that you are available to collect the goods at the arranged time and have the means to do so.

Occupation fees

The landlord/agent can charge the equivalent of one day's rent for each day they hold the goods. In total, an occupation fee cannot exceed the equivalent of 14 days rent.

Disposal of ordinary goods

The landlord/agent may dispose of the goods in any lawful manner (such as donating them to charity, having the local council collect them or selling them).

If they sell the goods, the landlord/agent must keep a record of the goods sold. On your request, they must pay you the proceeds of the sale less any occupation fee and the reasonable costs of the sale.

Disposal of personal documents

The landlord/agent should return the documents to the issuing authority. If they cannot reasonably do this, they may dispose of them in any lawful manner that does not result in personal information becoming public (e.g. shredding them before disposal).

TENANTS RIGHTS FACTSHEET 25: Goods left behind

Disputes

The NSW Civil and Administrative Tribunal (NCAT) can handle disputes about goods left behind. You can apply to NCAT for order/s: that the landlord/agent:

- compensate you for disposing of goods other than according to the law – apply within 30 days of becoming aware of the goods' disposal
- compensate you for damage to goods left on the premises before they are claimed – apply within 30 days of becoming aware of the damage
- return goods to you – apply within 3 months of becoming aware that the landlord/agent holds the goods
- pay you the proceeds of sale of goods, or an amount equivalent to the value of the goods – apply with 6 months of the termination of the tenancy agreement.
- give you, or a person you authorise, access to the premises to recover your goods.

You must apply within the time limits given above but do not delay.

The maximum compensation NCAT can award is \$15,000.

Also see Factsheet 11: *NSW Civil and Administrative Tribunal*. Contact your local Tenants Advice and Advocacy Service for help in preparing an application.

Applications by landlord to NCAT

A landlord/agent may apply for order/s:

- that a tenant pay an occupation fee
- about how to deal with goods if a tenant dies or abandons the premises.

December 2016

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

SYDNEY:

• Eastern	9386 9147
• Inner	9698 5975
• Inner West	9559 2899
• Northern	8198 8650
• Southern	9787 4679
• South West	4628 1678
• Western	8833 0933

REGIONAL:

• Blue Mountains	4782 4155
• 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	9698 0873
• West NSW	6884 0969
• South NSW	1800 672 185
• North NSW	1800 248 913

WEBSITE: tenants.org.au

NSW FAIR TRADING: 13 32 20

This factsheet is intended as a guide to the law and should not be used as a substitute for legal advice. It applies to people who live in, or are affected by, the law as it applies in New South Wales, Australia. ©Tenants' Union of NSW