

Domestic violence and renting

Everyone deserves a safe home. Tenancy law can help victim-survivors of domestic violence in a number of ways. For a summary, start by reading [Factsheet 12: Domestic violence and renting](#) which discusses:

- How to end a tenancy in a domestic violence situation
- What you can do if you want to stay at the property
- What to do if there is property damage or you have left things behind

This Supplementary Guide provides additional information on **Domestic Violence Termination Notices, Declarations by Competent Persons**, and other options available to victim-survivors under tenancy law. It also summarises legal options available to **co-tenants, sub-tenants and head-tenants**.

Your local **Tenants Advice and Advocacy Service** can give you advice about staying at or leaving your rented home. Tenant Advocates prioritise survivors of domestic violence. Advice is free and confidential (contact details below).

You may want to seek assistance to get an **Apprehended Violence Order (AVO)** against the offender. There are two types of AVOs – Apprehended Personal Violence Orders (APVOs) and Apprehended Domestic Violence Orders (ADVOs). APVOs are made between individuals who are not in a domestic relationship (e.g. coworkers), ADVOs protect individuals in a domestic relationship. For more information about domestic violence, AVOs, and other aspects of family law, see the resources at [Women's Legal Service NSW](#).

What is a Domestic Violence Termination Notice (DVTN)?

A Domestic Violence Termination Notice (DVTN) is a notice to end a tenancy on grounds of domestic violence. The DVTN ends the tenancy without penalty.

To be valid, a DVTN requires evidence, such as a **Declaration by Competent Person**, or an **Apprehended Domestic Violence Order (ADVO)**.

If you are in a co-tenancy situation, you must also give the DVTN to the other co-tenant(s). You do not have to attach the evidence to the notice/s you give to any other co-tenants.

See our sample DVTN: [Sample letter: Ending tenancy due to domestic violence](#). Also see [Factsheet 12: Domestic violence and renting](#).

What is a 'Declaration by a Competent Person'?

A Declaration by Competent Person is one way to provide the evidence required for a DVTN. It is accessible and effective. It does not require victim-survivors to speak to police or engage with the justice system.

► Declaration by Competent Person (NSW Fair Trading)

The Declaration by Competent Person gives a professional opinion that domestic violence took place and should be made after consulting with the tenant (or their dependent child). A separate declaration is required for each tenant seeking to be declared a victim-survivor of DV.

If the tenant is not a victim-survivor of domestic violence, but their **dependent child** is, the correct form is a [Declaration by Competent Person for Tenant's Dependent Child](#) (NSW Fair Trading).

A Competent Person should not contact or seek information from the domestic violence offender in any circumstances.

After making a declaration, the Competent Person should give the declaration to the tenant and keep a copy for their records. The Competent Person is not required to take any further action.

Who can complete a 'Declaration by Competent Person'?

You can write a declaration in support of a DVTN if your profession is listed below:

- Registered health practitioners who hold either general or specialist registration under the Health

Practitioner Regulation National Law (NSW), in one of the following health professions:

- Aboriginal and Torres Strait Islander health practice
- Chinese medicine
- chiropractic
- dental (including the profession of a dentist, dental therapist, dental hygienist, dental prosthetist and oral health therapist)
- medical
- medical radiation practice
- midwifery
- nursing
- occupational therapy
- optometry
- osteopathy
- paramedicine
- pharmacy
- physiotherapy
- podiatry
- psychology
- social workers who are a member of the Australian Association of Social Workers,
- employees of a NSW government agency that work in child protection,
- employees of non-government agencies that receive government funding to provide services relating to domestic violence/sexual assault or refuge/emergency accommodation, and
- approved counsellors under the *Victims Rights and Support Act 2013*.

What other help is available to victim-survivors under tenancy law?

Ending the tenancy

A Domestic Violence Termination Notice (DVTN) is the best way for a victim-survivor to end their tenancy without penalty. See above and [Factsheet 12: Domestic violence and renting](#).

If you **do not want to or are unable to end your tenancy by using a DVTN**, it is a good idea to get advice from your local Tenants Advice and Advocacy Service about your options (contact details below).

You also have the standard options for ending a tenancy under tenancy law. Options for ending your tenancy will depend on whether you have a fixed-term or periodic agreement. You will also need to consider whether you are a head tenant, co-tenant, or sub-tenant (see below). For information about the standard ways you can end your tenancy see also:

- [Factsheet: You want to leave](#)
- [Factsheet: Ending fixed-term tenancy early](#)
- [Factsheet: Share housing](#)

In some cases you might apply to the NSW Civil and Administrative Tribunal (NCAT) for an order to end the tenancy – if so it's a good idea to get advice from your local Tenants Advice and Advocacy Service (contacts below).

Staying in the tenancy

There are options for a victim-survivor to stay in the tenancy, whether or not the offender's tenancy is ended. It's a good idea to get advice (see contacts below). Your options depend on whether you have a fixed-term or periodic agreement, and whether you are a head tenant, co-tenant, or sub-tenant (see below).

A victim-survivor who stays at the tenancy may be able to avoid legal responsibility for damage done during a DV incident. There are also rules which allow you to change the locks and take other security measures. See [Factsheet 12: Domestic violence and renting](#).

A victim-survivor may be able to access financial support to make the home safer, social work support, or victim support. Contact:

- [Staying Home Leaving Violence](#) (NSW Government)
- [Victims Services NSW](#) (NSW Government)

Property damage and the bond

For information on property damage and the bond see [Factsheet 12: Domestic violence and renting](#).

Head tenants, co-tenants, and sub-tenants in DV situations

Your legal options may differ depending on whether you are a co-tenant, head-tenant or a sub-tenant. See also [Factsheet: Share housing](#).

A **head-tenant** has their name on the residential tenancy agreement with the owner, and lives at the premises while sub-letting part of the premises to one or more other people. A **co-tenant** has their name on the residential tenancy agreement with the owner and other co-tenant(s). Co-tenants share rights and obligations and are responsible for the tenancy – jointly and individually. A **sub-tenant** is a person who is sub-letting from a head-tenant. Sub-tenants will be covered by the Residential Tenancies Act if they have a [written agreement](#) to live in the premises with the head tenant/s.

A tenancy agreement may be **fixed-term** (e.g. 6 months), or an ongoing **periodic agreement** (where the fixed term has expired or is not specified). Your legal options may

differ depending on whether you are in a fixed-term or periodic agreement.

Head tenant

If you are a victim-survivor who is the **head tenant** and you want to **end the entire tenancy at the premises**:

- You can end the tenancy immediately by using a DVTN (see [Factsheet 12: Domestic violence and renting](#)) and vacating the premises.
- If you do not want to or are unable to use a DVTN, you can apply to the Tribunal for an order ending your tenancy in the special circumstances of the case.
- You can also end the tenancy by serving the usual notice required. There may be monetary consequences, depending on your agreement. See [Factsheet: You want to leave](#) or [Factsheet: Ending fixed-term tenancy early](#).

If you are a victim-survivor who is the **head tenant**, and **you want your tenancy to continue, but you want the offender to leave**:

- A final ADVO that excludes the offender from the premises (by address) also terminates their tenancy.
- If you do not have a final ADVO and or/ are unable to get one, you can use one of the standard methods for ending their tenancy, such as serving them a 14 day termination notice for breach. See [Factsheet: Eviction – landlord ends tenancy](#).
- You can also apply to the Tribunal for termination of their tenancy for your hardship.

Co-tenants

If you are a victim-survivor who is a **co-tenant**, and you want to **end the tenancy**:

- You can end the tenancy immediately by using a DVTN (see [Factsheet 12: Domestic violence and renting](#)) and vacating the premises.
- If you do not want to or are unable to use a DVTN, you can apply to the Tribunal for an order ending your tenancy in the special circumstances of the case.
- You can also use one of the standard methods for ending a tenancy. See [Factsheet: You want to leave](#) or [Factsheet: Ending fixed-term tenancy early](#).

If you are a victim-survivor who is a **co-tenant**, and **you want the tenancy to continue, but you want the offender to leave**:

- You can apply to the Tribunal for an order ending the perpetrator's tenancy in the special circumstances of the case.
- An ADVO may prevent the perpetrator from being at the premises but not terminate their tenancy.
- A final ADVO that excludes the perpetrator from the premises (by address) will have the effect of terminating their tenancy.

A tenancy can be **transferred** from one person to another, with **written consent** from the landlord. The landlord may refuse, and does not need to have a good reason to withhold consent. However, the landlord must not 'unreasonably' refuse consent if the tenants taking over the tenancy include one of the original tenants and one or more additional tenants. See [Factsheet: Transfer and sub-letting](#).

If you are the **remaining co-tenant** in a fixed-term agreement after another co-tenant has ended 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. See also [Factsheet: Ending fixed-term tenancy early](#).

Sub-tenant

If you are a victim-survivor who is a **sub-tenant with a written agreement** and **you want to leave**:

- You can end the tenancy immediately by using a DVTN (see [Factsheet 12: Domestic violence and renting](#)) and vacating the premises.
- If you do not want to or are unable to use a DVTN, you can apply to the Tribunal for an order ending your tenancy in the special circumstances of the case.
- You can also use one of the standard methods for ending a tenancy. See [Factsheet: You want to leave](#) or [Factsheet: Ending fixed-term tenancy early](#).

If you are a victim-survivor who is a **sub-tenant with a written agreement**, and **you want to stay at the tenancy, but want the offender to leave**:

- If the offender is excluded from your home, and you are not named on the lease with the owner, you can ask your landlord to sign a tenancy agreement with you. If they refuse, you can apply to the Tribunal for an order that you be recognised as a tenant.
- You may be able to apply to the Tribunal for an order ending the perpetrator's tenancy in the special circumstances of the case.
- An ADVO may prevent the perpetrator from being at the premises but not terminate their tenancy.
- A final ADVO that excludes the perpetrator from the premises (with the address specified) will have the effect of also terminating their tenancy.

Boarders and lodgers

If you are a **boarder or lodger**, or if you **do not have a written tenancy agreement**, you are probably covered under different laws. If you are unsure whether you have a tenancy agreement or whether you are a boarder, lodger or tenant, you should get advice from your local Tenants Advice and Advocacy Service (contacts below). See also [Factsheet: Boarders and lodgers](#) and [Factsheet: Boarding Houses Act](#).

If you are a boarder or lodger and you are concerned for your safety, contact one of the DV support services listed below. The police can still apply for an ADVO for your protection. If you want to end your agreement, give the landlord a written notice to leave according to your agreement. Keep a copy of your notice. If your agreement does not have a notice period, give 'reasonable' notice. For example, if you pay rent weekly, give 7 days notice. Take all your belongings with you – if not, it may be hard to get them back.

More information

Tenants' Union sample Domestic Violence Termination Notice: [Ending tenancy due to domestic violence](#).

Tenants' Union factsheets [12: Domestic violence and renting](#), [You want to leave](#), [Eviction – landlord ends tenancy](#), [NSW Civil and Administrative Tribunal](#), [Share housing](#), [Ending tenancy early](#), [Goods left behind](#), [Locks & security](#), [NSW Civil & Administrative Tribunal](#)

Tenants' Union podcast episode: [Get me outta here](#).

NSW Fair Trading sample Domestic Violence Termination Notices: [From tenant to landlord](#), [from tenant to each co-tenant](#) and [For tenant's dependent child](#).

Social housing tenants: [Domestic and Family Violence: Housing Factsheet](#) (DCJ Housing).

Government supports: [Start Safely](#), [Victims Services](#) and [Staying Home Leaving Violence](#).

Contacts

NSW Domestic Violence Line (24 hours): 1800 65 64 63

1800RESPECT (24 hours): 1800 737 732

Tenants Advice and Advocacy Services: phone numbers below and at tenants.org.au/get-advice

Community Legal Centres: clcnsw.org.au

Women's Legal Service NSW: wlsnsw.org.au 1800 810 784

Wirringa Baiya Aboriginal Women's Legal Centre:
wirringabaiya.org.au 1800 686 587

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For free advice, call your local Tenants Advice & 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

WEB: 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