

# Factsheet: Private Renting – What You Need to Know About Your Rights and About Eviction

## What is a tenant?

If you are renting your home and are not sharing with your landlord or other strangers, then you are likely to be defined as a “tenant” under NSW law.

If you have signed a document called a “residential tenancy agreement” with the person you are renting from, then it is also very likely that you are a tenant.

In NSW, there is law that protects tenants and gives them rights against their landlords. This legislation is called the “Residential Tenancies Act”.

## What rights do I have?

Every residential tenancy agreement automatically includes the standard terms from the Residential Tenancies Act. You always have these rights, even if they are not written down in the contract.

These rights are:

- your landlord can only enter the premises for certain reasons and after giving you the correct notice;
- your landlord has to keep the premises in a reasonable state of repair;
- your landlord can only charge you for utilities like water and electricity if your usage is separately metered;
- your landlord cannot interfere with your peace, comfort and privacy;

- your landlord cannot evict you during the fixed term of your agreement unless you have breached your tenancy agreement.

Sometimes a landlord will try to put conditions in your contract that are unfair.

For example:

- that you are not allowed to leave your premises between certain times;
- a fine or a penalty if you are late in paying your rent or for breaching a term of the agreement;
- that you must use a cleaning service at the end of your tenancy.

A landlord is not allowed to include terms that are unfair or try to take away the rights that the law gives tenants.

## What can I be evicted for?

Only the NSW Civil and Administrative Tribunal (NCAT) can decide if your tenancy should be terminated.

- If you are on a fixed term agreement you can only be evicted if you have breached your contract and the Tribunal thinks that it is serious enough to end the tenancy agreement.

Examples of this are not paying your rent (for more than 14 days), causing serious damage to the property or causing a nuisance.

- You cannot be evicted for not complying with an unfair term in your contract.

- Once your fixed term comes to an end, you can be evicted for no reason (“no grounds”).

## What is the process for eviction?

The process for eviction is:

- First, your landlord issues a “notice of termination”. This notice must be in writing and set out the reason for the termination. It must also provide the correct amount of notice (eg 14, 30 or 90 days). You do not have to move out just because you receive a notice of termination.
- Your landlord can then apply to the Tribunal for termination orders.
- The Tribunal will send you a letter and you will be given a time and date to come to the Tribunal. You can ask the Tribunal to provide you with an interpreter, and for someone like a friend, family member or tenant advocate to speak for you.
- There is a hearing and the Tribunal decides if it should terminate the tenancy. The Tribunal will first check that the notice of termination your landlord gave was valid (e.g. there was enough days’ notice). It will then decide whether your tenancy should be terminated. The Tribunal will consider evidence from both you and your landlord.
- If your landlord is saying you have breached the tenancy agreement, then they will have to prove that you were in breach, and that the breach was sufficient to justify terminating the tenancy. You will then have opportunity to explain your side of things.
- If the Tribunal decides to terminate your tenancy, it will make a termination order, and set a date for you to leave the property. You can ask the Tribunal to “suspend” this possession date to give you more time.
- If you don’t move out by the date set by the Tribunal, then your landlord can ask the Tribunal to issue a “warrant for possession”. This is a special order that gives the NSW Sheriff the power to carry out an eviction.
- Your landlord is not allowed to change your locks or call the police to remove you from the property. The only person who can evict a tenant is the NSW Sheriff, enforcing a warrant issued by the Tribunal.
- There are fines of up to \$22,000 for anyone else who comes into your house to try to evict you.

## Help and advice

Redfern Legal Centre provides free and confidential legal advice:

- Phone us on (02) 9698 7277. If you need an interpreter, phone the Translating and Interpreting Service on 131 450 and ask them to phone us
- Visit us at 73 Pitt Street Redfern
- Email us at [info@rlc.org.au](mailto:info@rlc.org.au)
- Fill in our web enquiry form at [www.rlc.org.au](http://www.rlc.org.au)

**Published on 30 September 2022.  
Produced by Redfern Legal Centre.**

*This factsheet is not a substitute for legal advice. If you have a problem, please seek legal advice.*