De'Termination: Evictions and how to challenge them (NSW)





Kimberley Mackenzie

Tenancy and Housing Law Solicitor Redfern Legal Centre

Acknowledgement Of Country

Outline

- 1. Overview of the termination process
- 2. When can a tenant be evicted?
- 3. When can a tenant terminate the tenancy agreement?
- 4. Illegal lockouts
- 5. Questions and more information/advice

Resources <u>www.rlc.org.au/training/resources/evictions</u>



- a) Notice of Termination
- b) Application to the NSW Civil & Administrative Tribunal (NCAT)
- c) NCAT hearing
- d) NCAT orders termination and possession
- e) NCAT issues warrant for possession
- f) Sheriff of NSW executes warrant for possession and locks are changed

a) Notice of Termination

You DO NOT HAVE TO MOVE OUT in accordance

with the date on the Notice of Termination

b) Application to the NSW Civil & Administrative Tribunal (NCAT)

c) NCAT hearing

Always attend the hearing unless the NCAT tells you in writing that you do not need to attend.

d) NCAT orders termination and possession

Seek advice ASAP about whether there are grounds to have the orders set aside or to appeal!

e) NCAT issues warrant for possession

Pack a bag of all important documents, possessions and medications.

f) Sheriff of NSW executes warrant for possession and locks are changed

Comply with the Sheriff.



When can a tenant be evicted?

Most common types of evictions:

- Breach of residential tenancy agreement including rental arrears 14 days notice
- End of fixed term 30 days notice
- No grounds 90 days notice (not allowed during fixed term)
- Sale of premises 30 days notice

When can a tenant be evicted?

Sample letters:

https://www.tenants.org.au/resources/eviction



3. When can a tenant terminate the tenancy agreement?

When can a tenant terminate the tenancy agreement?

- Landlord has breached the agreement 14 days notice
- End of fixed term 14 days notice
- No grounds 21 days notice (not allowed in fixed term)
- There has been domestic violence

Breaking the lease early

Break fees usually apply when breaking a lease. Many rental agreements contain these break fees:

- If less than 50% of the fixed term had expired 6 week's rent
- If more than 50% of the fixed term had expired 4 week's rent

For agreements that do not have this clause, or where this clause is crossed out, the break fee equals the landlord's financial losses - can include things like rent until a new tenant moves in, advertising costs, real estate fees.

Breaking the lease early

NEW LAW! Expected to come into force February/March 2019:

< 25% of the fixed term had expired — 4 weeks' rent

25% - 50% of the fixed term had expired — 3 weeks' rent

50% - 75% of the fixed term had expired — 2 weeks' rent

75% or more of the fixed term had expired — 1 week's rent

When can a tenant terminate the tenancy agreement?

Sample letters:

https://www.tenants.org.au/resources/you-want-to-leave



4. Illegal lockouts

Illegal lockouts

- Only the Sheriff of NSW can execute a warrant for possession
- A person who illegally locks out a tenant can face a penalty of up to \$22,000

Illegal lockouts

Sample letters:

https://www.tenants.org.au/resources/eviction

Questions?



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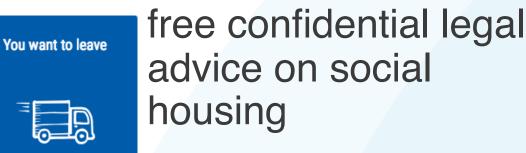
RESOURCES: www.rlc.org.au/training/resources/evictions



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Enquiries: Nick Manning

education@rlc.org.au

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Thank you



We Can Come to You

RLC can present this workshop at your staff training or interagency – or we can customise training to suit your needs.



Enquiries: Nick Manning (02) 9698 7277

education@rlc.org.au