

T 4.18 Ending a Tenancy Policy

1. Purpose

This policy explains how a tenancy can be ended by either a tenant or Common Equity NSW (CENSW). It sets out the situations where a tenancy may end, the responsibilities of both tenants and CENSW, and how CENSW will work to support tenants to sustain their housing wherever possible.

2. Scope

This policy applies to all tenancies managed by CENSW.

3. Policy

When tenancies end, CENSW will:

- follow all legal requirements
- communicate clearly with tenants during the process
- act fairly
- provide support to help with the transition when applicable, considering the circumstances that applies to each case.
- ensure tenants know how to make a complaint, appeal a decision or access advocacy if needed.

3.1 Ways a Tenancy Can End

3.1.1 By a Tenant

Tenants may end their tenancy at any time by providing written notice as set out in the *Residential Tenancies Act 2010 (NSW)*. Required notice periods are set out in Table 1:

Table 1: Notice Periods

Situation	Notice Required
Periodic tenancy	21 days
Fixed-term tenancy (at or after the end date)	14 days
Early termination due to hardship	14 days
Family or domestic violence (with evidence)	None required – immediate

CENSW understands that every tenant's situation is different. Due to the limited availability of social housing, we may agree to a shorter notice period where it is reasonable and fair to do so. The decision to accept a shorter notice period must be approved by the relevant Manager and Co-operative Services Team Officer.

When one tenant ends a joint tenancy (where two tenants are listed on the same tenancy agreement), the tenancy will be terminated. CENSW will then assess the needs of the remaining tenant in line with the *Eligibility and Allocations Policy*. This may include signing a new tenancy agreement for the same property or, if possible, transferring the household to a more suitable property.

3.1.2 By CENSW

CENSW will only end a tenancy after all reasonable options to sustain the tenancy have been explored, documented and exhausted. We will act in line with our legal duties under the *Residential Tenancies Act 2010 (NSW)* and other relevant legislation, ensuring all processes are fair, transparent and lawful.

Before ending a tenancy, CENSW will:

- document the steps taken to support the tenant
- issue a Notice of Termination with the notice period required by law
- clearly state the reasons in plain and accessible language
- offer the tenant the opportunity to attend the final inspection
- provide information about appeals, complaints and advocacy pathways
- seek approval from Senior Leadership Team before applying to NCAT for an Order of Termination and Possession

3.2 Grounds for Ending a Tenancy

3.2.1 Serious or Ongoing Breach of the Residential Tenancy Agreement

CENSW will work with tenants to resolve breaches such as non-payment of rent, property damage, antisocial behaviour or other serious issues. Tenancy termination will only be pursued where:

- the breach is serious
- breaches continue after attempts to fix the issue
- there is violence, threats, or significant property damage

3.2.2 Safety or Risk Concerns

Where a tenant's behaviour or use of the property presents a safety risk, CENSW may act under breach provisions of the *Residential Tenancies Act 2010 (NSW)*. Examples include threats or harm to others, ongoing unsafe or hostile behaviour, or conduct that creates health and safety risks. CENSW will always attempt to manage risks through support, referrals and tenancy interventions first.

3.2.3 Alternative Premises

CENSW may need to relocate tenants for management reasons. This can include situations such as:

- under-occupancy or over-occupancy (household size no longer matches the property)
- redevelopment, renovation or sale of the property
- return of the property to Homes NSW
- where another household requires the property for accessibility purposes (e.g. disability modifications)

In these cases:

- tenants will be offered two reasonable alternative housing options (see Eligibility and Allocations Policy)
- CENSW may assist with relocation costs (see Transfer Policy)

If two reasonable offers are declined, CENSW may issue a termination notice under Section 148 of the *Residential Tenancies Act 2010 (NSW)*.

Tenants have the right to an internal review under section 149 of the Act and the associated Ministerial Guidelines. Reviews will be conducted by a senior CENSW manager within 7 days, with second-tier review available through the Housing Appeals Committee.

3.2.4 Death of a Primary Tenant

When the primary tenant passes away, different arrangements apply depending on who is living in the household.

- No other household members: The tenancy will end. This may occur before the end of a fixed-term agreement. Rent is only charged up to the date of death. The tenant's legal representative is responsible for the property. Common Equity provides up to three weeks to return the keys and to have vacated all tenants belongings. Extra time can be approved but rent may be charged until the property is vacated. In some cases, costs for damage or money owed may be recovered from the tenant's estate.
- Other authorised household members remain: They may apply to take over the tenancy under the Recognition as a Tenant (Succession) Policy.

3.2.5 No Longer Eligible for Social Housing Program

The Social Housing Program has eligibility rules or time limits. These conditions are explained at the start of the tenancy. If a tenant is no longer eligible under program requirements, CENSW may end the tenancy in line with the Residential Tenancies Act 2010 (NSW)

3.2.6 Apprehended Violence Orders (AVOs)

If a final AVO prevents a tenant from accessing their property, that tenant's tenancy may be terminated. This does not affect the tenancy of other authorised tenants. See the *Family and Domestic Violence Policy* for more information on orders in the cases of domestic and family violence.

3.3 Moving Out and Returning the Property

When a tenancy ends, tenants must return the property by the agreed date. This means:

- removing all personal belongings from the property
- leaving the property in a similar condition to when the tenancy began, apart from fair wear and tear
- repairing, or covering the cost of repairing, any damage that is not fair wear and tear
- returning all keys and access devices
- ensuring all rent and other charges are paid up to date

3.4 Property Inspection

CENSW will carry out a final inspection as close as possible to the move-out date and give the tenant the chance to be there. The original Condition Report will be used to identify damage beyond fair wear and tear.

Any damage will be documented and charged to the tenant unless:

- it is due to fair wear and tear, or
- there is evidence that the damage resulted from a domestic and family violence incident (where the tenant was not the perpetrator)

3.5 Abandoned Properties

CENSW will consider a property abandoned when there is evidence that a tenant is not living there. Indicators that we could use to assess whether a property has been abandoned includes:

- CENSW was advised that no one is living at the property
- the tenant is not maintaining the property
- the tenant is not paying rent or other charges
- the tenant is not responding to CENSW's communications
- there is uncollected mail at the property
- goods have been removed, for example, the fridge and washing machine

CENSW will inspect the property and make enquiries to find out if the tenant has abandoned it. If it is determined that the tenant has abandoned the property, CENSW will seek possession of the property under Section 106 of the *NSW*

Residential Tenancies Act 2010. CENSW has the right to seek compensation at NCAT for loss of rental income and property damage.

3.6 Goods Left Behind

Tenants are responsible for removing their belongings from the property at the end of the tenancy. CENSW will deal with goods remaining in the property after the property has been returned to CENSW or if the property has been abandoned, following the *Uncollected Goods Act 1995*.

Table 2: Types of goods, notices and disposal

Goods type	Notice form	Notice time	Disposal	Record kept
Perishable and rubbish	Nil	Nil	Yes	No
Value less than \$1000	Written	14 days	Appropriate manner	12 months
Value between \$1000 - \$20,000	Written	28 days	Public auction or private sale	6 years
Value over \$20,000	NCAT	NCAT	NCAT orders	6 years
Personal documents	Written	28 days	To the issuer/ secure disposal	6 years

3.7 Outstanding Charges

When a tenant vacates a property for any reason, they may be required to pay any outstanding charges on their tenancy accounts. If the tenant vacates without giving sufficient notice, CENSW will charge rent and, if applicable, water usage for the full notice period.

If the property is not returned to CENSW at the end of the notice period, we will charge rent and, if applicable, water usage to the date the tenant returns the keys or advises us that they have vacated and are unable to return the keys.

If a tenant abandons the property, we will charge rent and, if applicable, water usage up to the date that CENSW obtains vacant possession of the property.

If a tenant does not owe money at the end of their tenancy and there is no damage to the property, the bond paid during the tenancy will be refunded in full.

CENSW will make a claim against the bond following a discussion with the tenant and in the following circumstances:

- there is unpaid rent and/or, if applicable, water charges
- the reasonable cost of repairing damage to the property that is beyond fair wear and tear

- the reasonable cost of cleaning any part of the property not left reasonably clean, considering how clean the property was at the start of the tenancy
- the reasonable cost of having the locks changed, or other devices replaced (for example, a fob), if the tenant doesn't return all keys and devices they were given

3.8 Centrepay Payments

Where a tenant is paying rent through Centrepay, CENSW will cancel payments. Tenants can also cancel their Centrepay payment.

4 Appeals

Tenants have the right to appeal decisions made under this policy. The CENSW Appeals Policy has more information on appeals.

5 Related Legislation, Documents and Policies

- Residential Tenancies Act 2010 (NSW)
- Uncollected Goods Act 1995
- Recognition as a Tenant (Succession) Policy
- Domestic and Family Violence Policy
- Sustaining Tenancies Policy
- Tenant Rights and Responsibilities Policy
- Rent and Debt Management Policy
- Appeals Policy

6 Variations

Name and Designation of Approver	Head, Co-operative Services
Contact/Responsible Delegation	Co-operative Services Team Manager
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