

PURPOSE:

This policy is to ensure that the Company and Co-op follows legal requirements of the Residential Tenancies Act 2010 and other relevant legislation and respects the principles of natural justice for tenants relevant to breach of tenancy.

This policy specifies a number of actions that the company and Co-op would consider to be breaches of tenancy.

1. SCOPE

- 1.1. Applies to all staff
- 1.2. Applies to co-operatives

2. EXCEPTIONS:

NA

3. DEFINITIONS

- 3.1. **Landlord** -the person who grants the right to occupy residential premises under a residential tenancy agreement.
- 3.2. **Co-op** - governance structure where residents become 'members' of the cooperative, and play an active part in running the organisation.
- 3.3. **Tenant** -the person who has the right to occupy residential premises under a residential tenancy agreement.
- 3.4. **NCAT** – NSW Civil & Administrative Tribunal.
- 3.5. **NTT** – Notice to Terminate
- 3.6. **NTQ** – Notice to Quit

4. RESPONSIBILITIES

4.1. Chief Executive Officer (CEO)

- 4.1.1. Providing resources
- 4.1.2. Oversight of process etc

4.2. Manager

- 4.2.1. Staff competency
- 4.2.2. Monitoring

4.3. Board

4.4. Quality Coordinator (QC)

- 4.4.1. Review the policy with relevant staff as per schedule or when required

5. CONTENT

- 5.1.** The Landlord will treat tenancy breaches in line with the Residential Tenancies Act 2010 and other relevant legislation.
- 5.2.** The Landlord will apply the principles of natural justice when investigating breaches of tenancy agreement.
- 5.3.** The Landlord considers the following to be breaches of tenancy:
 - 5.3.1.** Damage to landlord property by the tenant or invited guests.
 - 5.3.2.** Dumping rubbish (debris, furniture or disused household appliances) in any areas not designated for such use.
 - 5.3.3.** Nuisance and disturbance to other tenants, by tenants, members of their household and their invited visitors..
 - 5.3.4.** Subletting or assigning of the tenant's accommodation without the consent of the Landlord.
 - 5.3.5.** Using the property for illegal purposes.
 - 5.3.6.** Making any unauthorized alterations to internal or external walls, ceilings, and floors without the landlord's permission.
 - 5.3.7.** Keeping a pet without the Landlord's permission.
- 5.4.** CENSW as the housing provider can on behalf of the Co-op lodge an application to the NCAT for a performance order or a termination notice.
- 5.5.** To make a termination order for breach, NCAT must be satisfied that:
 - 5.5.1.** The tenant has breached the residential tenancy agreement, and
 - 5.5.2.** The breach is, in the circumstances of the case, sufficient to justify termination of the agreement, and
 - 5.5.3.** The termination notice was given in accordance with the requirements and the tenant has not vacated the premises as required by the notice.
- 5.6.** The Co-op can issue a NTT even if the Tenant has remedied the breach. For example where a tenant has been persistently in rent arrears. The NCAT may refuse to make a termination order.

6. REFERENCES

- 6.1.** Residential Tenancies Act 2010

7. ASSOCIATED DOCUMENTS

- 7.1.** Tenants Rights
- 7.2.** C1.7 Rent and Rebate Policy and Procedure

8. FORMS

- 8.1.** Notice to Terminate
- 8.2.** Request that Tenant Remedies the Breach
- 8.3.** Explanation Sent with Notice to Terminate

9. PROCEDURE –

9.1. How to issue notice to terminate for a breach of tenancy

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Steps	Who is responsible	When
1. Before you issue a Notice to Terminate please contact CENSW as the housing provider to discuss.	Tenancy Committee Treasurer or Field Office	Before NTT is issued
2. Complete the Notice to Terminate. Have you: <ul style="list-style-type: none"> a. Given the tenant adequate information to help them understand that the breach is happening, and to stop or remedy the breach? b. Taken all reasonable steps to stop the breach? c. Considered will a Notice to Terminate be an effective way of stopping the breach? d. Complete the notice accurately giving as much detail as possible. 	Tenancy Committee Treasurer or Field Officer	Before NTT is issued
3. Serve the Notice to Terminate on the Tenant with the explanatory letter enclosed.	Tenancy Committee or Field Officer	By <u>mail</u> allowing <u>21</u> <u>days</u> from date of service to expiry for most matters (this covers you for the four working days postage required in addition to the 14 days notice period. By <u>Hand</u> allowing only the minimum <u>14</u> <u>days</u>.