

Fact Sheet 10: Ending your tenancy agreement

As a tenant you have rights under the *Residential Tenancies Act 1987* (the Act). This fact sheet explains the law in Western Australia about ending your tenancy agreement and incorporates the changes made to the Act, which came into effect on 1 July 2013.

Steps to end your tenancy agreement

1. **Written notice.** You must give the lessor a written termination notice within the appropriate notice period. You can write a letter or use the *Notice of Termination from Tenant to Lessor* (Form 22) which you can download from the Department of Commerce website www.commerce.wa.gov.au
2. **Vacating the property.** When leaving a tenancy you should leave the property in the same condition as it was when you moved in otherwise the lessor can claim part or all of your bond money to cover the cost of cleaning or carrying out repairs.
3. **Final Inspection.** Within 14 days of the tenancy ending, the lessor must inspect the property and complete a Property Condition Report (PCR). The PCR will detail the condition of the property at the time of you vacating the premises.

You should make every effort to attend the final inspection with the lessor because it will give you the opportunity to ask what the lessor intend to deduct (if anything) from your bond. If you are present it may also give you an opportunity to explain any damage and thereby prevent any future dispute about the return of the bond money (see *Fact Sheet 4: Property Condition Reports*).
4. **Security bond.** After handing back the keys to the lessor (and providing that the original "Lodgment of Security Bond Money" form was lodged correctly) you can then seek to get your bond back. All of the of the bond money should be returned to you unless you owe money for outstanding rent, are responsible for property damage, or have outstanding water bills or incurred other costs – such as cleaning.

You bond money cannot be released until all parties agree and have signed the Form 4 Joint Application for Disposal of Security Bond (see *Fact Sheet 8: Security Bonds*).

5. **Forwarding address.** You must give the lessor a forwarding address at the end of the tenancy agreement.

Termination notice

The notice of termination must be in writing. You can either:

1. Write a letter to the lessor. The letter should include the address of the rental property concerned, the date you will be moving out of the property and the reason for moving out (if any);
or
2. Use the *Notice of Termination from Tenant to Lessor* (Form 22) which you can download from the Department of Commerce website www.commerce.wa.gov.au

You can deliver the termination notice personally or send it by normal post. If you deliver the notice personally you can give it to the lessor, the lessor's property manager, the person or organisation that receives your rent or any person who appears to be over the age of 16 years living at the lessor's home.

If there is more than one lessor the notice only has to be delivered to one of them.

Keep a copy of the notice for yourself and keep a record of how and when you sent or delivered it.

Ending a periodic tenancy agreement

You can end a periodic tenancy agreement without having to provide a reason, but you must give the lessor a minimum of **21 days notice** in writing.

If the lessor wants to end the tenancy agreement they must give you a minimum of **60 days notice** using a *Notice of Termination* (Form C1).

If the property is being sold and the contract of sale requires handing over the vacant property, then the lessor must give you a minimum of **30 days notice** using a *Notice of Termination* (Form C1).

Ending a fixed term tenancy agreement

A fixed term tenancy agreement does not automatically end on the expiry date unless you or the lessor gives at least **30 days notice** of termination in writing. The date identified as the date you will move out of the property can be on or after the date of the expiry of the fixed term agreement. If you and the lessor nominate different days, then the earliest day is the day you must move out of the property.

If you want to end a fixed term tenancy agreement before the end of the fixed term you need to be aware that such an agreement is a legally binding contract. This means that the lessor may require you to continue to pay rent until the end of the fixed term.

To avoid paying rent until the end of the fixed term you should contact the lessor as soon as possible and explain why you need to move out and offer to try to find a replacement tenant.

Even if the lessor is cooperative and finds replacement tenants, you may still have to pay for any loss of rent if there is a gap between when you move out and when the new tenants move in. The lessor may also require you to pay the cost of advertising for new tenants.

What if the property is destroyed, compulsorily acquired by law or rendered uninhabitable?

If the damage to the property was not caused by the tenant breaching the tenancy agreement, the tenant may give at least **2 days notice** to end either a periodic or fixed term tenancy. If the lessor wants to end the tenancy in these circumstances, the lessor must give you at least **7 days notice** in writing.

If you have any questions about the topics discussed in this fact sheet please contact your local tenancy advocate or the Department of Commerce on 1300 30 40 54 or go to www.commerce.wa.gov.au

METROPOLITAN: Fremantle Community Legal Centre (Fremantle) (08) 9432 9790 www.fremantle.wa.gov.au | Gosnells Community Legal Centre (Gosnells) (08) 9398 1455 www.gosclc.com.au | MIDLAS (Midland) (08) 9250 2123 www.midlas.org.au | Northern Suburbs Community Legal Centre Inc. Mirrabooka: (08) 9440 1663 Joondalup: (08) 9301 4413 www.nsclegal.org.au | SCALES, Rockingham: (08) 9550 0400 www.law.murdoch.edu.au/scales | Sussex Street Community Law Service Inc. (Victoria Park) (08) 6253 9500 www.sscls.asn.au | Welfare Rights & Advocacy Service (Perth) (08) 9328 1751 www.wraswa.org.au **REGIONAL:** Albany Community Legal Centre Inc. Albany: (08) 9842 8566, Free call: 1800 606 060 www.albanyclc.com.au | Agencies for South West Accommodation (ASWA) Bunbury: 08 9791 1877 www.glcl.com.au | Geraldton Resource Centre (Geraldton) 08 9938 0600 www.grc.asn.au | Goldfields Community Legal Centre Kalgoorlie: (08) 9021 1888 www.glcl.com.au | Kimberley Community Legal Services Kununurra: (08) 919 3100 Free Call: 1800 686 020 | Peel Community Legal Service Inc. (Mandurah) (08) 9140 1613 www.peelclc.com.au | Pilbara Community Legal Service Karratha: 08 9185 5899 Newman: 08 9177 8708 Roeburne: 08 9182 1169 South Hedland: (08) 9140 1613 | Wheatbelt Community Legal Centre Inc. (Northam) (08) 9622 5200 www.wheatbeltclc.com.au | **State wide legal telephone advice line** Metro: (08) 9221 0088 Regional: 1800 621 888

Disclaimer: Though every attempt was made to present information in an accurate way in this information sheet NSCLC disclaims liability for any loss or damage arising from its use. This sheet is intended as a guide only.