



TENANCY: THE JOY, THE HORROR

Sometimes you feel at the mercy of your landlord/lady. Sometimes it's a case of tenants behaving badly. ROYA ARAN and NINA LAU set out the obligations on both sides of the fence.

Who does the Act cover?

As a tenant, you should be aware of your rights under the Residential Tenancies Act 2010. The Act covers both private tenants who have a written or oral residential tenancy agreement, as well as social housing tenants. The Act does not cover some tenancy agreements, specifically tenants whose main residence is a residential park, residential aged care, boarding and lodging agreements, which may include university campus living agreements.

The tenancy agreement

There are two types of agreements:

- Fixed Term agreement: This is an agreement for a specific period of time
- Periodic Agreement: This is an agreement where the fixed term has expired, OR no fixed term was specified.

YOUR GENERAL RIGHTS

As a tenant, you have a right to be given a copy of your residential tenancy agreement and a condition report by the landlord/agent and the NSW Fair Trading New Tenant Checklist. Your general rights also include the following;

- **The property should be clean and fit to live in.**
- You should receive receipts for the rent that you pay
- You should be able to live comfortably, without the landlord interfering with your property.
- Reasonable repairs should be made, and you should get repaid for any urgent repairs you make up to \$1000.
- You should receive written notice if the landlord wants to end your tenancy
- If the landlord breaches a term of your agreement, you may apply to the NSW Civil and Administrative Tribunal
- You have the right to refuse the landlord from entering, unless they notified you earlier.

YOUR OBLIGATIONS

- To pay rent on time. If in arrears, this is a breach of your agreement.
- To pay for any damage
- To report immediately any maintenance issues
- To not change anything to the property, unless the landlord gives you permission

- Not to use the property for an illegal purpose
- To give the correct notice when you leave
- To leave the premises in a similar condition to when you first started renting, except for normal wear and tear.

A landlord can ask you to pay both rent in advance: You cannot be required to pay more than 2 weeks rent in advance and a bond (no more than 4 weeks rent).

Termination

If the landlord wants to end your tenancy, a termination notice must be given in writing. This also applies if you, as a tenant want to end your agreement. The notice of termination must provide the address, the day you will leave and the reason for termination, if any.

Notice: For LANDLORDS

The amount of notice you are given will depend on what type of agreement you are in. However, a landlord can apply to the tribunal for a termination order without giving you any notice. If the tribunal agrees to the termination order, you may have to give possession of the property immediately. Where a tribunal order has been made and you do not leave by the specified day, the landlord can get a warrant for possession from the tribunal. With this warrant, a Sheriff's officer can remove you from the property – with police if needed.

Notice: For TENANTS

You must give at least the following notice if you wish you terminate your agreement.

GROUND	FIXED-TERM	PERIODIC
no reason	14 days	21 days
breach agreement	14 days	14 days
property unusable	none	none

CHECK your tenancy agreement, as there may be a break fee associated with ending your tenancy early.

EVICTON: YOUR RIGHTS

- No tribunal or court order: The landlord cannot evict you unless they have followed the tribunal process. Anyone who locks out a tenant without a tribunal or court order

can be fined up to \$22,000 and ordered to compensate you.

- Retaliatory Eviction: If the landlord acts in response to you enforcing your legal rights, the tribunal may find this as a retaliatory eviction. The tribunal may then declare the termination notice to have no effect.

About the Tribunal

The NSW Civil and Administrative Tribunal is an independent body which deals with disputes between landlords and tenants. It is not a formal court, but it's decisions are legally binding.

Time limits

You have 3 months from the date you are aware of a breach to make an application to the tribunal. You should still check the application form for other time limits, and if the time has passed, ask for an extension.

Costs

An application costs \$38, however if you are on a government pension or benefit, Austudy, Abstudy or have a seniors card, the cost will be \$5.

Representation

Tenants usually represent themselves, however you can ask the tribunal to let another person speak for you if they allow it. You may also bring someone for support. A landlord will usually bring a real estate agent to represent them. You should ALWAYS attend the hearing as the tribunal can make a decision that affects you, even if you are not there. If you do not attend, you may find that you have been evicted, or you have been ordered to make additional payments that you did not know about, or everything the landlord said was taken as fact.

Some of this info is from Tenants NSW. The information is general and should not be relied on as legal advice.

CONTACT STUDENT LEGAL SERVICES ON 8688 7875 OR EMAIL STUDENTLEGALSERVICES@UWS.EDU.AU

UWS Student Legal Service is a joint venture between Macquarie Legal Centre and UWS. Located at UWS Parramatta Community Justice Clinic, Parramatta Local Court, it provides advice to currently enrolled UWS students through SSAF funds.