

Ending a Tenancy

Purpose

The purpose of this policy is to explain how Bridge Housing will end tenancies in accordance with the *Residential Tenancies Act 2010*. This policy applies to all Bridge Housing's managed properties.

Scope

This policy applies to all tenants of Bridge Housing.

Policy overview

This policy covers ending a tenancy within the legal requirements of the *Residential Tenancies Act 2010* and the Residential Tenancy Agreement.

The policy operates from a service delivery perspective of supporting vulnerable tenants to sustain their tenancies. While NSW Civil and Administrative Tribunal (NCAT) action and eviction may be the result in some circumstances, in the majority of cases all steps will be taken to assist a tenant to keep their tenancy.

Bridge Housing recognises there are several reasons tenancies may end. Some of these are voluntary, where the tenant indicates they wish to leave their tenancy and move into the private rental market, or to relocate interstate.

On other occasions it may be necessary for Bridge Housing to initiate ending a tenancy due to the property being taken back by the landlord, sale or termination of a leasehold property, renovations, disposal or redevelopment. In these situations, Bridge Housing will issue notice in accordance with the *Residential Tenancies Act 2010* and provide all possible support and assistance to the tenant. Bridge Housing will always seek to provide a reason for ending a tenancy.

Bridge Housing may also initiate a termination of a tenancy where there is a breach of the *Residential Tenancies Act 2010*. Where a tenant has breached a term of their Residential Tenancy Agreement, they will be advised in writing and given every opportunity, support and assistance to rectify the problem and to sustain their tenancy.

The process of ending a tenancy has considerations in relation to the notice period given, reasons for ending tenancies and management of unclaimed goods.

When Bridge Housing issues a notice of termination, it will do so in accordance with the *Residential Tenancies Act 2010*, explaining the reason for the termination and a reasonable timeframe for the tenant to vacate the premises.

Policy

Reasons for ending a tenancy

A tenancy is either ended voluntarily through notice or terminated through the NCAT.

There are several reasons why tenancies may end. The most common reasons are explained below.

When a tenant wants to leave – ending a tenancy on a voluntary basis

Tenants are required to give written notice to Bridge Housing when they decide to leave their tenancy. The minimum notice period for a fixed term tenancy is 14 days for both a no grounds termination notice and a breach of the Residential Tenancy Agreement.

The minimum notice period for a periodic agreement is 21 days no grounds notice and 14 days for a breach of the Residential Tenancy Agreement.

The tenant will receive confirmation in writing that their notice to terminate the tenancy has been received.

A tenant may withdraw a notice to vacate at any time with Bridge Housing's consent. The tenant may give a further notice on the same or other grounds at a future date.

When a landlord terminates a leasehold tenancy

Where a tenancy agreement is legally terminated by the owner of the property and the end of the tenancy is not

due to the actions of the tenant, Bridge Housing will seek to rehouse the tenant in general social housing, either in a leasehold or a capital property before the notice expires.

In these instances, tenants may be encouraged to find suitable properties. Bridge Housing will work with tenants to locate a new property and assess whether the property is suitable and at an appropriate standard. In some circumstances, tenants will ask if they can be actively involved in finding suitable, alternative accommodation for their household. Bridge Housing will provide guidance for tenants seeking to do so.

Bridge Housing is clear that where a tenancy agreement is legally terminated by the owner of the property and the end of the tenancy is not due to the actions of the tenant, the onus is on Bridge Housing to rehouse tenants in this situation and that they are under no obligation to find their own accommodation.

Transitional (temporary) housing tenancies

Transitional housing tenancies are fixed term, temporary and established as part of a partnership with a support provider. Bridge Housing and the support provider make it clear at the start of the tenancy that the tenancy is for a fixed term and that a notice of termination will be issued to coincide with the last day of the tenancy. Bridge Housing ensures that tenants are provided with written confirmation of the transitional housing requirements. Both the support agency and Bridge Housing will assist the tenant in finding long term accommodation.

The Housing Pathways application for these tenants remains live on the NSW Housing Register in recognition of the temporary nature of these tenancies.

Relinquishing a tenancy

A tenant may relinquish or be asked to relinquish their tenancy when they are unable to continue living in their property. This will be when the tenant has gone into long term care, rehabilitation or other institutional care or prison for more than three months in line with Bridge Housing's Absence from Property Policy and Succession Policy.

In these situations, the tenant will receive confirmation that their tenancy has ended and where appropriate will be given information on the circumstances in which a tenancy can be reinstated.

Transfer, relocation and mutual exchange

When a tenant is approved for a management transfer or mutual exchange, their existing tenancy will be

terminated. The tenant will then sign a Residential Tenancy Agreement before moving into the other property.

Eviction proceedings for a breach of the Residential Tenancy Agreement

Where a tenant has breached a term of their Residential Tenancy Agreement, they will be advised in writing and given every opportunity and all possible support and assistance to rectify the problem.

Where there is a serious breach and the tenant does not rectify the problem, it may be necessary to proceed with action for termination of the agreement and possession of the premises. This action will involve an application for a hearing at the NCAT following due legal process as laid down by the *Residential Tenancies Act 2010*.

Section 85 no grounds termination notice

Under Section 85 of the *Residential Tenancies Act 2010*, Bridge Housing may apply for a 90 days no grounds termination of a periodic tenancy agreement. Bridge Housing recognises that a no grounds notice is a last resort available within the *Residential Tenancies Act 2010* and that the principles of continuing tenancy and tenant rights will prevail as far as possible.

The application for a Section 85 notice will only be made in rare and exceptional circumstances. Bridge Housing defines these instances where the tenant is committing acts of extreme violence or behaviour that constitutes a serious risk of serious injury or danger to persons or properties or where a tenant has refused to sign a valid lease.

A Section 85 no grounds termination can only be issued with the approval of the General Manager, Housing and Community.

All other avenues with the NCAT in relation to termination of the tenancy must have been exhausted and procedural fairness and tenant rights maintained.

Abandonment

Where a tenant has abandoned the property, Bridge Housing can apply to the NCAT for an order declaring that the premises are abandoned and for a change of locks. Where there is no doubt that the property has been abandoned, Bridge Housing can change the locks and take possession.

Death of a sole tenant

Where a sole tenant has died, Bridge Housing will liaise with the tenant's family and /or legal representative to

deal with the contents of the house and to end the tenancy. Confirmation that the tenancy has ended will be provided to next of kin or the legal personal representative.

In circumstances where the tenant has no family or support, the tenancy can be ended immediately. Confirmation that the tenancy has ended will be sent to the estate of the tenant.

Succession of a tenancy where there has been the death of a sole tenant will be in accordance with Bridge Housing's Succession Policy.

Property is uninhabitable or destroyed

When a house becomes uninhabitable due to flood, fire or other causes, termination of the tenancy takes immediate effect.

Former Bridge Housing tenancies

At the end of tenancy, a check will be made on any outstanding rental or non-rent debts and any nuisance and annoyance or illegal activities.

Bridge Housing will take action in the NCAT to recognise any substantial outstanding tenant debt and these will be recorded against the tenant file in the Bridge Housing system.

Under Housing Pathways, when an applicant has been identified as being previously housed in social housing, they will be referred to their previous social housing provider. Their tenancy history will then be reviewed to determine their eligibility for social housing or other Bridge Housing properties and any conditions that the applicant may need to meet before approving their request for housing assistance.

Bridge Housing will need to be satisfied that a former tenant has the ability to sustain a tenancy, with or without support. Bridge Housing will also consider whether other people who lived with the former tenant can be part of any future household. This applies in cases where a household member in a previous tenancy was responsible for nuisance and annoyance, property damage or acts of violence.

The applicant will have to meet specific conditions before a provider can list their application on the NSW Housing Register or be considered for other housing assistance. Applicants may need to provide evidence of their ability to sustain a tenancy. All applicants who have debts must repay those debts. Bridge Housing will still consider the applicant for assistance if they demonstrate their commitment to repay the debt by making regular repayments.

Eligible for rental reference

A tenant will be eligible for a rental reference if:

- Rent was paid up to date and has been paid regularly for the previous six months
- No proven complaints have been received against the tenant
- Notice has been properly given
- Property has been left in an acceptable condition
- Keys have been returned to Bridge Housing

Complaints and appeals

If a tenant is not satisfied with a service provided by Bridge Housing or does not agree with a decision it has made, they can ask for a formal review. To do this, the tenant can complete either an **I want to complain form** or an **I want to appeal form**, details of which appear in the Bridge Housing's Complaints and Appeals Policy. This policy, and a helpful information leaflet, is available from Bridge Housing's office or they can be downloaded from our website www.bridgehousing.org.au

If a tenant is unhappy with the outcome of an appeal to Bridge Housing, they can lodge a second level appeal with the Housing Appeals Committee. The Housing Appeals Committee is an independent agency that reviews certain decisions made by staff of Community Housing organisations and Housing NSW. For information on the Housing Appeals Committee call 1800 629 794 or go to www.hac.nsw.gov.au

Related documents

Legislation

- *Residential Tenancies Act 2010*
- *Residential Tenancies Regulation 2010*

Documents supporting this policy

- Ending a Tenancy Procedure
- Ending a Tenancy Factsheet
- Ending a Tenancy Training Guide
- NSW Fair Trading Factsheet
- Succession Policy
- Absence from Property Policy

Translation Service

English

If you need help to understand this letter please contact the Telephone Interpreters Service on 131-450 and ask them to contact on 9699-6055 for you at no cost. You can also come to the Bridge Housing office and ask for assistance in your language.

Simplified Chinese

如果您理解这封信有困难, 请拨打电 话传译服务 131450 要求电话传译 服务替您拨打 Bridge Housing, 电话 9699-6055。这项服务是免费的。您也可以到 Bridge Housing 的办公室来。 要求用您的语言来协助您。

Spanish

Si necesita ayuda para entender esta carta, por favor comuníquese con el Servicio Telefónico de Intérpretes al 131450 y solicite que lo contacten sin cargo con Bridge Housing al 9699-6055. También puede dirigirse a las oficinas de Bridge Housing y solicitar asistencia en su idioma.

Russian

Если для понимания содержания этого письма Вам необходима помощь, свяжитесь, пожалуйста, с Телефонной переводческой службой по номеру 131450 и попросите соединить Вас с Bridge Housing по номеру 9699-6055. За соединение платить не нужно. Кроме того, Вы можете лично посетить офис Bridge Housing и попросить об услугах переводчика.

Greek

Εάν χρειάζεστε βοήθεια για να κατανοήσετε την παρούσα επιστολή, παρακαλώ επικοινωνήστε με την Υπηρεσία Τηλεφωνικών Διερμηνέων στο 131-450 και ζητήστε τους να επικοινωνήσουν με το 9699-6055 για εσάς χωρίς καμία χρέωση. Μπορείτε επίσης να επισκεφθείτε το γραφείο Bridge Housing και να ζητήσετε βοήθεια στη γλώσσα σας.

Vietnamese

Nếu cần người giúp để hiểu thư này xin quý vị liên hệ với Dịch Vụ Thông Ngôn Điện Thoại số 131450 và nhờ họ liên lạc với Bridge Housing qua số 9699-6055 cho quý vị một cách miễn phí. Quý vị cũng có thể đến Văn Phòng của Bridge Housing và xin giúp đỡ bằng ngôn-ngữ của quý-vị.