

# Ending Tenancies

January 2020



## Document Information

**Title:** Ending Tenancies  
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**Version:** 1  
**Endorsed by:** Judy Line  
**Issue date:** 13 January 2020  
**Review date:** 13 January 2022

## Revision History

<b>Issue date</b>	<b>Version</b>	<b>Revision description</b>
27 May 2019	1	Creation of website version
13 January 2020	2	Updated to reflect Housing Registrar Guidelines

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## **1. Purpose**

The purpose of this policy is to provide guidance in relation to the ending of tenancies within the Women's Housing Ltd (WHL) portfolio.

## **2. Statement of Commitment**

WHL is committed to sustaining tenancies through positive tenant support and early intervention.

WHL acknowledges the personal and financial vulnerability of many of our clients and that these vulnerabilities can result in tenancies being placed at risk.

We are committed to ensuring, through this policy and others, that all our tenants are enabled every opportunity to sustain their tenancies.

WHL is therefore committed to the rights of tenants to have safe and secure accommodation.

We are also committed to applying the provisions of the *Residential Tenancies Act 1997* (RTA 1997). WHL apply these provisions fairly and accurately. We also strive to protect the legal rights of tenants at all times.

## **3. Scope of Policy**

This policy is applicable to tenants in all WHL housing programs.

## **4. Policy Overview**

This policy addresses the ending of tenancies in accord with the legal requirements of the RTA 1997 and the terms of tenancy agreements.

WHL policy seeks to ensure from the outset that tenants and their support workers have a clear understanding of the purposes of the specific WHL housing program.

There are several circumstances where tenancies might end. Some are voluntary; others will be forced. In summary the different scenarios are:

- The tenant breaches the conditions of the tenancy agreement and, as last resort, action is taken by WHL to terminate the tenancy in accord with the RTA 1997;
- The tenant finds alternative long-term housing and vacates the property in an orderly manner.
- Death of a sole tenant.
- The tenant abandons the property without notifying WHL.
- In the case of properties that are privately owned and leased to DHHS and then leased to WHL, the owner may want to reclaim the property, in which case WHL is obliged to terminate the tenancy.

In all cases WHL will follow due process. Tenant's rights will be upheld, statutory requirements will be met and, where needed, the exiting tenant will be provided with clear and accurate information about alternative housing.

## **5. Tenancy Terminations**

### **5.1 Breaches of Tenancy Agreement**

WHL will be required from time to time to issue Notices to Vacate and pursue an action for eviction because of serious breaches of tenancy agreements

In general terms, WHL's breach of tenancies system incorporates the following features:

- Advice and information provision at beginning of tenancies concerning breaches;
- Immediate response to neighbour complaints and reports of tenancy breaches of duty;
- Immediate engagement with tenants, support workers and other affected parties to address alleged breaches of duty and ensure a fair and just process;
- Application of appropriate breach measures to quickly address the situation;
- Referral of tenants to specialised counselling and support if appropriate;
- Protection of the safety and rights of all parties;
- Institution of legal action and eviction proceedings where necessary.

#### **5.1.1 Advice and information provided at sign up**

At the beginning of the tenancy, tenants will be supplied with an information package intended to assist and inform the tenant about a range of matters related to their residency.

Both the tenancy agreement and the sign-up package include a clear statement of tenant responsibilities and the possible reasons for ending tenancies and eviction. WHL will verbally reinforce these provisions by emphasising that eviction proceedings may occur if the tenant breaches the tenancy agreement.

#### **5.1.2 Prompt Response to Breaches of Duty by Tenants**

The general duties of tenants are specified within the RTA 1997. In summary these provisions state that a tenant must:

- not use premises for an illegal purpose;
- not cause nuisance or interference to neighbours;
- avoid damage to premises or common areas;
- must give notice of damage;
- keep rented premises clean; and
- not install fixtures without consent.

Failure to comply with these duties can result in the issue of a breach notice in accord with the RTA 1997.

In all cases WHL will respond to all alleged breaches in a timely and appropriate manner.

In the cases of more serious incidents, WHL will respond immediately and urgently to alleged breaches where:

- the tenant or the tenant's visitor by act or omission has caused a danger to any neighbours;
- the tenant or the tenant's visitor has intentionally or recklessly caused serious damage to any part of the property.

Dangerous and violent behaviours by tenants or their visitors will not be tolerated.

If the allegation involves serious acts of danger or violence by a tenant or a visitor, either in the property or its neighbourhood, WHL will immediately gather information where possible from the tenant and/or the visitor, neighbours and other affected parties. Police information if available will be sought.

### **5.1.3 Other Causes of Termination**

The RTA 1997 specifically refers to other instances where termination of tenancies may be taken. In addition to those already mentioned, these sections refer to:

- failure of a tenant to comply with Tribunal order;
- successive breaches by a tenant;
- sale of the property;
- repairs to or demolition of property;
- notice by property mortgagee.

These all entail varying notice periods. A table summarising all notice periods is attached as Appendix 1.

### **5.2 Institution of legal action and eviction proceedings**

Eviction proceedings will be taken only as a last resort.

Every effort will be made to resolve the situation with the tenant to prevent a forced termination of a residency. Tenants will be constantly encouraged to meet with WHL to discuss and resolve the matter.

If the matter is not resolved and proceedings continue, tenants will be encouraged verbally and, in all correspondence, to attend all related tribunal hearings.

If eviction is necessary, information about alternative housing options will be provided to tenants prior to and at the time of eviction.

### **5.3 Orderly Ending of Tenancy**

Tenants can also find alternative housing and vacate the property in an orderly manner.

Under THM arrangements tenants are not required to give notice of their intention to vacate their property.

Tenants residing in other WHL properties are required to provide notice, Rooming House Tenants are required to provide 2 days' notice and all other tenants are required to provide 28 days' notice.

All tenants are advised that:

- Rent will be charged until the keys to the property /premises are returned to WHL
- Tenant's belongings are to be removed from the property
- The property should be left in a clean and tidy state
- Tenant must resolve any outstanding rental issues

When a tenant notifies WHL of their intention to vacate, WHL will engage with the exiting tenant to try to ensure that these conditions are met.

### **5.4 Abandoned Properties**

A tenant might abandon a property without notifying WHL.

If a property is suspected of having been abandoned, WHL will attempt to contact the tenant and their support worker to ascertain if the property has been abandoned. If the investigation indicates clearly that the property has been abandoned, WHL will apply to VCAT for a declaration of abandonment in accord with RTA 1997.

## 6. Exit Interview

All exiting tenants will be provided with a copy of an exit interview and asked to provide reasons as to why they are vacating the property and provide any comments that can feed into ongoing improvements of the WHL service.

## 7. Definitions

Term	Definition
Eviction	The process of removing a person(s) from the occupation of a property, after a Warrant of Possession has been obtained. The Warrant of Possession is executed by the Police.
Hearing	A proceeding conducted at VCAT to resolve tenancy related issues based on the evidence presented.
Housing Act 1983	Legislation that governs the provision of housing assistance and the associated financial framework.
Legal Action	Where WHL has commenced proceedings to have a matter concerning rental arrears determined at VCAT.
Notice to Vacate	A legal notice served on a tenant as per section 246 of the <i>Residential Tenancies Act 1997</i> , where rental arrears of 14 days or more have accrued on a tenant's rental account.
Order for Possession	An order granted by VCAT giving WHL the right to obtain a Warrant to evict the occupants and regain possession of the property. The order is valid for a six-month period.
Rental Arrears	Unpaid rent owing to WHL.
Residential Tenancies Act 1997	Victorian legislation that governs residential tenancies outlining the rights and responsibilities of tenants and landlords.
Support worker	A worker for community, welfare, health, local government or departmental service or funded service for tenancy support management.
VCAT	Victorian Civil & Administrative Tribunal. A legal institution set up to administer several Acts. For residential tenancies, the Tribunal administers the <i>Residential Tenancies Act 1997</i>
Warrant of Possession	A legal document issued by VCAT authorising the Police to evict tenants from a property.

## **8. Reviewing**

This policy will be reviewed every two years following formal approval or sooner when changes in the policy or legislative environment require.

## **9. Supporting Resources**

- Managing Abandoned Goods Policy
- Bond Management Policy
- Vacating the Properties Checklist
- End of Tenancy Form
- Exited Tenant's Survey

## **10. Relevant Legislation**

- The Charter of Human Rights and Responsibilities Act 2006 (Vic)
- Residential Tenancies Act 1997
- Housing Act 1983 (Vic)
- VCAT Act
- Information Privacy Act 2000 (Vic)
- Privacy Act 1988 (Cth)