



Things tenants need to know

14 Tips for problem-free renting

Follow these helpful tips to avoid problems while you are renting:

- ✓ keep a copy of the lease agreement
- ✓ keep a copy of the condition report:
 - it will be needed at the end of the tenancy when a final inspection is done
 - if the landlord/agent disputes the return of the bond at the end of the tenancy, a carefully completed condition report may help a tenant prove that the bond should be refunded to them
- ✓ take good care of your home and treat it as if you own it
- ✓ comply with all the requirements of your lease agreement
- ✓ notify your landlord/agent as soon as you become aware of a problem:
 - let them know in person (you could take someone with you to act as witness) or by phone and then follow up with a letter confirming what was said
 - any follow up letter should clearly outline the problem, what you want done and the history of your complaint ie. when you first made contact etc

- ✓ keep a diary of your conversations with the landlord/agent- record all the times and dates of conversations, whom you spoke to and what they agreed to do
- ✓ keep copies of all your letters to the landlord/agent
- ✓ respect the peace, comfort and privacy of your neighbours
- ✓ do NOT stop paying rent regardless of what the landlord/agent does or doesn't do:
 - fourteen days rent arrears is sufficient grounds for your landlord to give you 14 days notice to leave – it's much safer and much more effective to apply to the Consumer, Trader and Tenancy Tribunal for a solution
- ✓ contact your landlord immediately if you need an urgent repair
- ✓ if you are having difficulty in paying the rent, you should notify your landlord immediately
- ✓ don't move out without giving the required notice as you may end up losing your bond or having to pay compensation to the landlord
- ✓ leave the premises in the condition in which you found them, fair wear and tear excepted
- ✓ take all your belongings with you when you leave.



Renting a home

For most of us, home is more than just a bed and a roof that keeps the rain off our head. Home is where we can enter a comfortable state of mind, relax into our favourite chair and forget about anything that happens outside the front door for a while.

When you rent a home in NSW and become a 'renter' or a 'tenant', knowing your rights and responsibilities will help you avoid or resolve differences you may have with your landlord, real estate agent, house-mates or neighbours.

The Office of Fair Trading manages the laws that govern your rights and responsibilities as a renter and can give you information to help you understand what these laws mean for you.

It is illegal in NSW for landlords and real estate agents to discriminate on the basis of race, sex, marital status, disability age and sexuality. If you think you have been discriminated against when looking to rent a residential property, contact Fair Trading, a Tenants Advice and Advocacy Service or the Anti-Discrimination Board.

Up front costs

Moving into a new, rented home involves a range of up front costs in addition to the rental bond that you should budget for.

Reservation fee

A reservation (deposit) fee is an amount of money (no more than one week's rent) that is sometimes paid to reserve the premises while an application for tenancy is being considered. A reservation fee is a sign of good faith, but does not guarantee that the tenancy will go ahead.

If the landlord or agent decides not to go ahead with the tenancy on the agreed terms, or makes no decision within one week of the fee being paid, the full amount must be refunded. Should the tenancy go ahead, the reservation fee is applied to the first week's rent.

If the Applicant withdraws, the landlord may retain rent for the days the premises were reserved. This is provided the premises were not let or occupied during the period of reservation, no more than one reservation fee was being held at the same time and a proper receipt and written acknowledgment were given to the prospective tenant when the fee was paid.

Agreement costs

The landlord can ask the tenant to pay half the cost of preparation of the tenancy agreement, but only up to a maximum of \$15 (GST inclusive).

This means that if an agent or solicitor charges more than \$30 to prepare an agreement the landlord must pay the balance over \$15.

Advance rent

A tenant must pay the rent in advance from the first day of the tenancy. The tenant can be required to pay:

- two weeks rent in advance, if the weekly rent is \$300 or less, or
- one month rent in advance, if the weekly rent is more than \$300.

It is important to remember that a tenant cannot be required to pay the rent other than on a weekly or fortnightly basis if the weekly rent is \$300 or less.

Advance rent is not money that the landlord can keep in reserve as some form of extra rental bond. A tenant cannot be asked to make any more rent payments until the rent that they last paid has been used.

For example; on the day the tenancy commences, the tenant may pay two week's rent and be 14 days in advance. As each day passes, the tenant becomes one day less in advance, so that when the rent next falls due (a fortnight later) the tenant is no longer in advance with the rent. By making their next fortnightly payment, the tenant is again 14 days in advance and the cycle continues.

Renting costs you need to know

When you sign a new lease and move into your new rented home, you will have a number of one-off and on-going expenses.

Your one-off expenses could include:

- ✓ setting up an account with the electricity provider
- ✓ if the property has gas connected, setting up an account with a gas provider
- ✓ setting up an account with a telephone/internet service provider:
 - if the property does not have a phone/internet connection you must get permission from the landlord before making arrangements for connections to be made.

Your on-going expenses will include paying rent, paying other bills such as for electricity and may involve paying water/sewerage charges.

Before you move in

Before choosing a particular property to rent, it is important to take a number of things into consideration:

- ✓ Is the house/flat close to public transport, friends, shops, work, school?
- ✓ Is it noisy – is it on a flight path or near a busy road? Can you put up with the noise?
- ✓ What is the parking like?
- ✓ Is there good security – are there locks on the windows and doors?
- ✓ Does the place need repairs – if so, will the landlord carry out any necessary repairs before you move in? Do you have it in writing?
- ✓ What is the weekly rent? How often do you have to pay? You normally have to pay two weeks in advance, but if your rent is over \$300 per week, you may have to pay a month in advance.
- ✓ How is the rent paid? Does the landlord collect? Do you pay at the agent's office?

Once you've made your decision and your application to rent the property has been accepted, the law says that landlords or their agents (usually a Real Estate Agent) must offer the tenant a written tenancy agreement (or lease) before the tenant moves in or the tenancy starts. The lease sets out the rights and obligations of all parties and a tenant should always insist on being given a copy of the lease once all parties have signed it.

The tenancy agreement must be provided by the landlord. Agreements can be purchased from most newsagencies and stationery stores. They are not available from the Office of Fair Trading.

In the event that a tenant is occupying a property without a written lease (in which case the landlord or agent has broken the law), the law protects the tenant in the same manner as if a written lease did exist.

Documents you must be given

Before a tenant enters into an agreement (lease) or moves into a residential property they must be given the following documents by the landlord or the landlord's agent:

- ✓ A copy of the proposed tenancy agreement (filled out by the landlord or agent where appropriate in the spaces provided) which comes in two parts:
 - the terms of the agreement
 - a report on the condition of the property (called the condition report)
- ✓ a written statement of the costs payable by the tenant on signing the agreement
- ✓ a copy of the *Renting guide*.

The tenant must be given time to read and understand the terms of the tenancy agreement before being asked to sign it.

Sharing a rented home

If you are thinking of sharing a home with friends or strangers, there are many things to consider.

Getting started

To make sure you make a decision about share housing that is right for you, start off by making a list of all the things you are looking for - house or flat, number of people, amount of rent, close to work/university/other, close to bus/train, friends/family, furnished or unfurnished etc.

Check out the 'to let' and 'share accommodation' sections in newspapers, on websites and community noticeboards. If you are a student, your college or university may have an accommodation officer who can help you with information.

How does your wish list stack up? Is what you are looking for likely to be available?

Moving in



If you decide to go ahead with sharing a property, you need to be aware of the four different arrangements that can apply which will have an impact on your rights and responsibilities. It is important to seek advice if you are unclear which category you fall into.

Tenant

In some sharing situations, you may still be a tenant. For instance, if you rent a 'granny flat' from the owner who lives in the main house. In these situations, you would have the same rights and responsibilities as any other tenant.

Head-tenant/sub-tenant

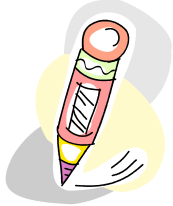
This occurs when a tenant of a property rents out part of the premises (eg. a room) exclusively to another person. The tenant should get the landlord's consent before sub-letting. Under this arrangement, the tenant becomes a head-tenant and takes on the landlord role with the person who has rented the room (ie, the sub-tenant).

Co-tenants

When more than one person signs a lease they are co-tenants. Co-tenants each have a legal agreement with the owner of the property and share full responsibility for the tenancy. A co-tenancy can also occur when a person takes over from somebody who was on the lease but has moved out.

Boarder/lodger

A boarder or a lodger is a person who shares a property without having a lease and the owner, head-tenant or caretaker they live with keeps control of the premises. Boarders and lodgers are not covered by the Residential Tenancy Act 1987 and do not have the same rights and responsibilities as tenants.



4 things to understand before signing a new lease

Before signing the lease that commits you to renting a residential property, you will need to make sure you understand what it contains and what you will be agreeing to by signing it.

Period of the agreement

The agreement should define a period of time called the 'fixed term'. Generally, tenancy agreements have a fixed term of either 6 or 12 months but the parties can agree to have a tenancy agreement for any length of time.

When the fixed –term period ends the tenancy agreement does not end unless it is terminated by the tenant or the landlord. If it is not terminated, the agreement becomes a continuing agreement with the same terms and conditions.

1. Terms

The terms of the agreement set out what the landlord and tenant agree to do during the tenancy.

Standard terms (terms 1-28) apply to all landlords and tenants and cannot be altered or deleted. There need not be any additional terms added to the tenancy agreement. Additional terms may however, be added as long as they:

- ✓ Expand on one of the standard items of the agreement, or
- ✓ Cover a matter under the Act which is not already dealt with in the agreement.

All additional terms, including any which may be printed on the agreement (not handwritten), are negotiable. The parties can agree to alter the wording or delete an additional term altogether.

It is against the law to add a term which conflicts with either the Act or one of the standard terms of the agreement. Examples of additional terms which are not binding or enforceable include:

- ✓ The tenant agrees to have the carpet professionally cleaned when they vacate, or
- ✓ The tenant agrees to replace tap washers, stove elements or to be responsible for any other repairs to the premises.

2. Condition report

The tenant and the landlord report on the condition of property at the start of the tenancy in the condition report, which is the second part of the tenancy agreement.

The landlord/agent generally completes the condition report first and then gives two copies to the tenant to record their assessment of the property. The tenant has 7 days to fill in both copies and return one to the landlord/agent. The tenant keeps the other copy.

Landlord/agent responsibilities

The landlord/agent should note the cleanliness, general condition and working order of each applicable item on the report. Any comments should be written in the space provided, or on a separate page if there is no room. If the property is furnished a list of all furniture and the condition of each item should be attached to the report.

3. Tenant responsibilities

It is important that tenants take the time to inspect the property thoroughly and record on the report the condition of the property as they see it.

The tenant should fill out the 'tenant agrees' column with a Y (for yes) or an N (for no). If the tenant does not agree they should write a reason in the comments area of the report.

Common conditions that can easily be missed are cracked windows, grease on the stove, marks on the walls or stains on the carpets. All of these conditions should be noted on the report.

The tenant should sign and return one copy to the landlord or agent within 7 days and keep the other copy for themselves.

If a condition report is not provided, the tenant should write a detailed report on the condition of the property and get a witness to sign and date it and send a copy to their landlord/agent.

The tenant should keep their copy of the condition report in a safe place – it will be needed at the end of the tenancy when a final inspection is done. If the landlord/agent disputes the return of the bond at the end of the tenancy, a carefully completed condition report may help a tenant prove that the bond should be refunded to them.



4.

Promised repairs

If the landlord or agent promises, prior to the start of the tenancy, to fix anything or do other work (eg. cleaning or painting) this should be noted in the space provided at the end of the condition report. The tenant will then have written evidence on which to take the matter further if the repairs or other work are not carried out by the agreed date.

Bonds

A rental bond is an amount of money paid by a tenant as a security for the landlord in case the tenant does not follow the terms of the agreement.

1. Amount of bond

Charging a rental bond is not mandatory, however the maximum rental bond that can be asked for is:

- Four weeks rent for unfurnished premises
- Six weeks rent for fully furnished premises with a rent of \$250 or less per week
- Unlimited, if the rent for fully furnished premises is more than \$250 per week.

The amount of bond that is to be paid (if any) must be written on the agreement.

Demanding or receiving a written guarantee from a tenant, or somebody on their behalf, is not permitted. A rental bond must be in the form of money and not as a guarantee.

2. Lodging a rental bond

The landlord or agent must send any bond paid to the Office of Fair Trading, within 7 days. A lodgement form is needed to do this and may be obtained from any Fair Trading Centre or from any branch of the Commonwealth Bank. Lodgement forms cannot be downloaded from this website as they have a unique barcode.

After the bond is lodged, all parties should receive an advice of lodgement that includes the unique rental bond number. If the advice is not received, the tenant should contact Fair Trading to confirm that the bond had been lodged. It is an offence for a landlord/agent to request a rental bond from their tenant and then not lodge it with Fair Trading.

During the tenancy, the bond is held by the Rental Bond Board and accumulates interest. The Rental Bond Board is the independent custodian of rental bonds paid by tenants to landlords for residential tenancies. The Office of Fair Trading administers the day to day functions of the Board, providing rental bond lodgement, custody, refund and information services.

3. Claiming the bond back

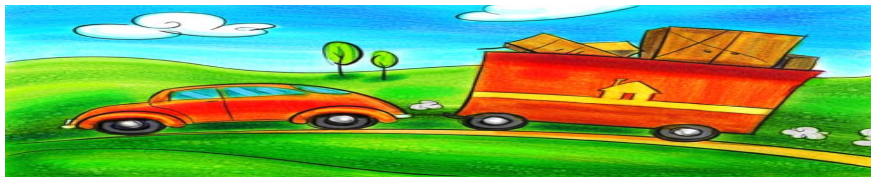
At the end of the tenancy, after the final inspection, a *Claim for Refund of Bond Money* form must be submitted to Fair Trading before the bond money can be refunded. You should not sign the form if it is blank or incomplete. The landlord or agent may want to claim some or all of the bond for themselves if they believe you have damaged the premises, breached your agreement or owe rent.

Any disagreement over how the bond is to be refunded should first be discussed between the parties. If agreement cannot be reached, either party may send a *Claim for refund of bond money* form to the Office of Fair Trading without the signature of the other party. The bond will not be paid out straight away. A letter will be sent to the other party advising them of the claim and giving them 14 days to apply to the Consumer, Trader and Tenancy Tribunal to dispute the claim. If no reply is received within 14 days the bond will then be paid out. Tell Fair Trading your new address so you can be notified if the landlord claims your bond.

4. Forms

Download

Four forms relating to rental bonds are available to download in PDF format. If you have a problem opening PDF's, right click on the link with your mouse and choose 'Save Target As' and save the PDF on your local drive. Then open it directly from Windows Explorer (or equivalent).



9 things you need to know when you move out

1. Notice of termination

A tenancy will usually be terminated by either the landlord or the tenant giving notice to the other party. However, in certain circumstances the Tribunal may be required to make orders to terminate the tenancy.

A notice of termination must:

- ✓ be in writing
- ✓ state the address of the premises
- ✓ be signed and dated
- ✓ allow the required period of time
- ✓ give the date **on** which the tenant intends to, or is required to, move out (NB: do not use words such as 'by' or 'on or before' in the notice)
- ✓ give full details of all breaches (if any) or reasons for ending the agreement
- ✓ and, if given to a tenant, include a statement that information about their rights and obligations can be found in the tenancy agreement.

The notice can be posted or given personally. A notice cannot be stuck to or put under a door by the person sending the notice.

If the notice is sent by post at least 4 working days (not including the day the notice was sent) should be added to the length of notice, to allow time for the notice to be delivered.

The notice period is counted from the day after the notice is served.

2. Notice periods

When the fixed term period of the agreement is due to run out, either party can give **14 days** notice to end the tenancy. This notice can be served up to and including the last day of the fixed term.

Once the fixed term period has ended, a tenant is required to give at least **21 days** notice, and the landlord must give at least **60 days** notice.

3. Notice on sale of premises

If the premises are sold and vacant possession is required in the contract of sale, the landlord must give the tenant at least **30 days** written notice (after the contracts of sale have been exchanged). This is only applicable to continuing tenancy agreements.





4. **Notice on breach**

A notice of termination may be given at any time if either party seriously or persistently breaches a term of the agreement, or if the tenant is more than 14 days in arrears of rent. At least 14 days notice must be given in writing.

5. **Breaking an agreement early**

If a tenant wants to end their agreement early they should give as much notice as possible, preferably in writing (keep a copy of the letter). It is a good idea to state the exact date you intend to leave and that you want the landlord, or agent, to find a new tenant. Any assistance in finding a replacement tenant (such as making the property readily available for inspection) may help to reduce the costs involved.

Having said this, breaking an agreement can be costly. A landlord can claim compensation for any loss they suffer as a result of the tenant ending an agreement early. The costs a tenant may be liable for include:

- Rent until new tenants move in or the existing agreement runs out (whichever happens first);
- A reletting fee (usually one week's rent) when the property is let by an agent who charges the landlord a fee for finding new tenants; and
- Advertising costs.

For a landlord to successfully claim, they must be able to show that their loss was caused by the tenant breaking the agreement early, not by other factors.