

Ending a Tenancy Policy

Category: Operations

1 PURPOSE

This Policy explains how Stellar Living Ltd ends tenancies in line with the Residential Tenancies Act 1987 (RTA).

2 OBJECTIVE

Tenancies come to an end for various different reasons:

- Tenants may choose to voluntarily vacate their property.
- Tenants may experience difficulties in meeting their tenancy responsibilities.
- Tenants may abandon the property or circumstances dictate that they can no longer occupy the property.

As such, this policy details the reasons and means by which a tenancy agreement can legally end.

Stellar Living tries to offer early assistance and works with partnership agencies to achieve stable tenancies, however we also need to consider our obligations to the broader community, protection of the building and sustainability of the business in our decision making.

3 SCOPE

This Policy applies to all tenancies and programs.

4 CONTENT

4.1 TENANT WISHES TO END A TENANCY

Voluntary Vacate

All notifications by a tenant to voluntarily end a tenancy must be in a written form by way of letter, recognised email address, 'Notice of termination by tenant to lessor' (Form 22) or by Stellar Living's Termination of Tenancy form.

Notice periods are (at least):

Periodic tenancy	21 days
Fixed term tenancy	30 days prior to the lease end date if the tenant does not wish the fixed term to be extended or renewed.

In exceptional circumstances or where a tenant may face undue hardship by continuing the tenancy, a termination date less than the required notice period may be agreed with the mutual consent of both Stellar Living and the tenant.

Delivery of the termination notice may be in person, by email or by post. If sending by post, tenants must allow at least 3 working days postage, considering weekends and public holidays. Personal delivery and email are effective from the date of receipt.

Family Domestic Violence

When there is a joint tenancy and it is demonstrated that a co-tenant cannot occupy the premises on the grounds of family Violence the tenant can give a Notice of Termination of Tenancy Interest on grounds of Family Violence (Form 1D), with supporting prescribed evidence, and terminate their interest in a tenancy.

A tenant subject to family violence can apply to a competent court to terminate their, or the perpetrator tenant's interest in a tenancy.

A tenant who is the perpetrator of family violence, may make an application to a competent court to terminate their interest in a tenancy.

Succession, Transfer, Mutual Exchange

Stellar Living operates a number of services to meet tenant's changing needs, namely:

- Joint to Sole - one party wishes to remove their name from the tenancy agreement.
- Sole to Joint - a tenant wishes to add another party to the tenancy agreement
- Succession - transfer of a tenancy to a household member
- Transfer - transfer to alternative accommodation due to essential needs
- Mutual Exchange - tenants voluntarily swap properties

In such situations all processes follow the requirements of the Residential Tenancies Act and the tenancies are ended by mutual consent, with tenants signing new tenancy agreements.

4.2 STELLAR LIVING WISHES TO END A TENANCY

a) Breach and Termination of the Tenancy Agreement

Examples of breaches are:

- Failing to make rent or non-rent payments on time
- Not maintaining satisfactory property standards
- Keeping unauthorised pets
- Causing a nuisance or demonstrating anti-social behavior or allowing visitors to do so
- Using the premises for illegal activities
- Making alterations, modifications or additions to the property without approval
- Running a home business without approval
- Changing or adding locks without approval
- Subletting without approval

Every effort will be taken to sustain a tenancy and where tenancies are managed on behalf of a Support provider decisions will be discussed and agreed on together.

b) Periodic and Fixed Term Tenancies

Tenants will be advised in writing of a breach of the Tenancy Agreement and given details of what the breach is, and how it can be rectified. Tenants have 14 days to rectify the problem.

Failure to rectify will result the issuing of a Notice of Termination, seeking to end the tenancy no sooner than 7 days after the Notice of Termination is received.

In instances of non-payment of rent, a Notice of Termination (no Breach issued) can be issued with a Termination date of no less than 7 days.

c) Notice of Termination

If the breach is resolved, no further action will be taken.

If the tenant fails to make efforts to rectify the situation within the required time, Stellar Living will issue a Notice of Termination to seek to end the tenancy.

60 days' Notice of Termination

The Residential Tenancies Act (Section 64) allows for a Notice of Termination (Form 1C) to be issued to a tenant on a periodic tenancy, requesting vacant possession without specifying any ground for doing so.

Stellar Living is committed to working with tenants and support partners to sustain tenancies. However, there may be occasions when a tenant is no longer eligible for a property or it is in the best interests of the business, we will issue a Notice of Termination without specifying a reason.

All Notice of Terminations require the approval of the General Manager or their delegate.

Serious damage, Violence or Threats of Violence

Stellar Living will apply to the Magistrates Court for an order under Section 73 of the Residential Tenancies Act for immediate termination for tenants who are causing, or are believed to be causing, serious damage to the property or displaying aggressive, violent or threatening behaviour to neighbours or staff (including contractors and support services). In such instances, no breach notice will be issued.

Non-Renewal or Extension of Fixed Term Tenancy

A fixed term tenancy does not automatically expire on the lease end date. If the fixed term is not to be extended or renewed, Stellar Living will provide the tenant with at least 30 days' written notice of intention not to renew the fixed term tenancy, stating the date the tenant must vacate the property.

If the date on a Notice of Termination from the tenant is earlier than the original lease end date, the lease end date is the date that tenant's obligations cease.

If the date on the Notice of Termination is later than the lease end date, the date on the notice will apply (effectively extending the fixed term until the end of the Notice of Termination period). The tenant can choose to move out after the lease end date if they choose, rather than the date on the Notice of Termination. If both the tenant and Stellar Living issue 30 days' notice to each other and the dates on the Notices of Termination are different, the earliest date (after the original lease end date) will apply.

Abandonment

Where there are reasonable grounds (as defined by the Department of Mines, Industry Regulation & Safety) to suspect a property has been abandoned, Access Housing will issue the required notices and take action to secure and recover possession of the property according to the requirements of the Residential Tenancies Act.

Relocation

Stellar Living may wish a tenant to relocate to an alternative property. The reasons for this include:

- The property becomes uninhabitable and requires maintenance or demolition;
- Stellar Living wishes to sell the property;

- The tenant is no longer eligible for the property e.g. it is too small, or they no longer meet specific program requirements.
- The legal owner of the property wants the property back.

In such instances, Stellar Living will provide tenants with as much notice as possible and support tenants during the relocation process.

Ineligibility

Stellar Living is a not-for-profit company with the purpose of providing social and affordable housing for people on very low and low incomes. Tenants must remain eligible throughout their tenancies by having income or assets within the income and assets thresholds.

Tenants housed under special program or funding such as NRAS and supported housing, may be required to provide additional information to confirm eligibility.

Tenants who no longer meet the eligibility criteria will be assisted to plan an exit into alternative housing within 6 months of the notification of ineligibility where a 60-day notice will be issued. Tenants may leave by mutual consent at any time during the exit period. Extensions to the exit period may be given where tenants are genuinely attempting to secure alternative accommodation but are unable to do so.

The Termination Notice will be enforced for tenants who fail to engage in an exit plan and do not make genuine efforts to secure alternative accommodation. In the case of periodic tenancies, this will be 60 days and for fixed term tenancies, 30 days' notice will be given to end the tenancy on its expiry date.

Tenants who fail to provide satisfactory proof of household income and assets when requested within the time frame nominated, may be deemed ineligible.

[Refer Eligibility and Rent Setting Policy](#)

Death of a tenant

Where the tenant on the tenancy agreement die and there is not a joint tenant, the tenancy ends. Stellar Living will negotiate the actual vacant possession date with the next of kin to allow the removal of personal belongings. The rent will usually cease on the date the keys are returned and vacant possession is granted.

Court Orders and Evictions

Where Stellar Living has sought to end the tenancy by issuing a Notice of Termination and the tenant does not leave on the vacant possession date stated in the notice, it will apply to the Magistrate's Court for an order to obtain possession of the property.

If an order for possession is granted and the tenant fails to leave on the date on the order, Stellar Living will obtain a Property (Seizure and Delivery) Order. This order is issued under the Civil Judgements Enforcement Act (2004) WA and allows a bailiff to enter the property and evict anyone unlawfully on the premises, if required.

5 AT THE END OF THE TENANCY

Tenant Responsibilities

Tenants are responsible for:

- Providing a forwarding address
- Giving vacant possession on the vacancy date & returning all keys
- Removing all furniture, personal items and rubbish
- Leaving the property clean and tidy
- Removing any approved alterations or additions and making good any damage
- Paying any outstanding debts such as rent, water and tenant liability
- Attending the outgoing property inspection
- Signing a joint application for disposal of security bond, if in agreement.

Stellar Living's Responsibilities

- Confirming the tenant's vacate date and outlining the end of tenancy process in writing.
- Offering the tenant a pre-termination inspection to identify any potential tenant liability charges, to give the tenant an opportunity to avoid such charges.
- Issuing a key receipt when keys are returned.
- Inviting the tenant for a joint Outgoing Property Condition Inspection.
- Identifying any non-fair wear and tear and taking photographic evidence.
- Managing any abandoned goods & documents in line with the [Abandonment Policy](#)
- Issuing a final account to the tenant advising of any outstanding charges
- Signing a joint application for disposal of security bond, if in agreement.

6 RIGHT OF APPEAL

If an applicant and tenant does not agree with any of Stellar Living Ltd decisions or actions, they can appeal under our appeals Policy. An "Appeal Form" can be provided upon request.

Effective date:	09/09/2019
External references:	<ul style="list-style-type: none"> • Residential Tenancies Act 1987 • Residential Tenancies Regulations 1989 • Privacy Act 1988 • Community Housing Agreement • Family and Domestic Violence Act • CH Income and Assets limits Policy • Equal Opportunities Act 1984 (WA) • National rental Affordability Act 2008
Version:	1

Custodian:	General Manager
Internal references:	<ul style="list-style-type: none"> • Appeals policy (under review) • Eligibility Policy • Privacy policy • Rent review procedures • Information and Records Management Policy (to be developed) • Domestic Violence Policy
Review:	01/09/2024

Version Notes

This policy is to be reviewed following legislative or organisational changes, or as a minimum, every five years.

Date of Change	Changes	Reason for Change	Author	Authorised
1/11/19		New	<i>K Moorey</i>	CEO

