

MAINTAINING TENANCY POLICY

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MAINTAINING TENANCY POLICY

Everything that Many Rivers Regional Housing does, and the decisions that are made, are driven by our understanding of, and respect for, the lived experience and cultural integrity of Aboriginal families and communities. We do this by following the values of cultural integrity, self-determination, good management, accountability and fairness.

1. POLICY STATEMENT

The Maintaining Tenancy Policy outlines Many Rivers Regional Housing Management Services Aboriginal Corporation's (Many Rivers) commitment and approach to tenancy management. Our approach is tenant-focused and works collaboratively with tenants and the community to establish and maintaining stable tenancies.

The tenancy management practices are documented, transparent and applied consistently across Many Rivers Regional Housing departments, our owning partners and tenancies, providing accountability for all.

The Policy ensures that the best interest of all stakeholders is achieved.

2. PURPOSE

The purpose of the policy is to provide guidance on Many Rivers' primary aims in the delivery of Aboriginal community housing:

- a. Deliver culturally appropriate housing services that assist tenants in establishing, and maintaining, affordable and secure tenancies
- b. Implementing strategies to minimise the risk of termination resulting from unpaid rent and non-rent charges associated with a tenancy, whilst maintaining the financial viability of our partners' property portfolios.
- c. Working in culturally appropriate ways to improve the housing conditions within communities, the long-term sustainability of tenure and the financial viability of our partners' property portfolios.

3. SCOPE

This policy applies to tenants, employees and directors.

Many Rivers has developed documented systems for tenancy management that are consistent with relevant legislation and align with the Residential Tenancies Act NSW 2010, the Aboriginal Housing Act 1998 and AHO Guidelines.

The Many Rivers supports tenants to sustain their tenancies using different approaches under different circumstances. This policy covers:

- Establishing Tenancies
- Arrears Management
- NCAT Applications & Terminations
- Tenancy Support: Interagency Referral and Advocacy
- Tenant Damage
- Domestic Violence
- Interagency Support

4. DEFINITIONS

Many Rivers	Many Rivers Regional Housing
Tenant	The person or persons as listed on the Residential Tenancy Agreement
Stakeholder	a party that has an interest in the corporation and can either affect, or be affected by the business
Residential Tenancy Agreement (RTA)	An agreement under the Residential Tenancy Act 2010. In this policy, the RTA is between Many Rivers and the tenant established for the purpose of the tenant leasing a residential property.

5. POLICY OVERVIEW

Many Rivers is committed to supporting tenants to maintain safe and stable tenancies. High quality and well-managed housing are pivotal to improving the lives of Aboriginal people.

To ensure this Many Rivers is responsible for:

- Providing culturally safe and respectful services
- Treating all tenants fairly and equally, without regard to the tenant’s position within the community.
- Endeavouring to build an open and positive relationship with all tenants
- Providing accurate and timely tenant statements each month
- Actively monitoring rent and water payments
- Communicating by using clear and easy to understand language
- Providing consistent information to all tenants regarding their rent and non-rent charges
- Ensuring policies and procedures are consistent with the NSW Residential Tenancies Act 2010
- Maintaining privacy and confidentiality when managing tenants’ information
- Informing tenants of their rights, responsibilities and the process of appeal
- Using feedback from tenants to identify and respond to opportunities for improvement

ESTABLISHING TENANCY

Each new tenant must sign a Residential Tenancy Agreement which complies with the Residential Tenancies Act 2010.

The Residential Tenancies Act sets out the legal requirements, including the obligations of both landlords and tenants. Tenants are fully informed of their rights and responsibilities during the sign-up appointment. This information is conveyed in a friendly and respectful manner. The language that is used during this process should reflect Many Rivers' desire to see tenants sustain their tenancy.

Each tenant will receive a Starting Tenancy Kit to assist in their tenancy. The kit will include:

- A signed Residential Tenancy Agreement
- A copy of the NSW Fair Trading New Tenant Checklist
- A copy of any Special Conditions associated with the property
- A Property Condition Report
- A Centrelink Deduction Consent Form
- Copy of the Keys being received
- A copy of the Many Rivers Tenant Handbook
- Tenant reference cards
- Information on support services, should they require their assistance during the tenancy

The rights and responsibilities of tenants are revisited with the tenant throughout the tenancy, especially when more complex issues arise.

ARREARS MANAGEMENT

Many Rivers has a clear framework to reduce and prevent arrears rent and non-rent arrears. Our focus is on repayments and future arrears prevention, not eviction.

Many Rivers works collaboratively with tenants and support services to sustain tenancies that are vulnerable or in jeopardy.

Tenants have a legal obligation to pay their tenancy charges as they become due. If they do not make payments, their accounts fall into arrears; this is a breach of their Residential Tenancy Agreement.

Procedures supporting arrears management are developed by Many Rivers and regulated by The Residential Tenancy Act NSW 2010. Many Rivers endeavours to ensure that all tenants are up to date with their rent and water charges. In line with the Residential Tenancies Act 2010, rent is required to be paid two weeks in advance, and non-rent charges are to be paid on time in accordance with the Residential Tenancy Agreement.

Many Rivers, pro-actively and consistently, monitors rent and non-rent arrears. The Many Rivers Maintaining Tenancy Escalation Ladder (Attachment 1) is utilised to provide early intervention, minimise arrears and provide a consistent and transparent processes. At each step on the escalation ladder, tenants are fully informed of the status of their tenancy.

The Maintaining Tenancy Escalation Ladder classifies each tenancy and provides corresponding actions.

Many Rivers Regional Housing recognises that tenants will be faced with financial difficulties during their tenancy, especially when the unexpected happens. If a tenant is facing financial difficulty Many Rivers will:

- Will assist the tenant to access support agencies
- Use positive, strength-based strategies to assist the tenant
- Seek to negotiate a repayment arrangement
- Maintain contact and work with the tenant through each step of the Maintaining Tenancy Escalation Ladder

The Many Rivers team are required to be:

- Respectful, honest and helpful to tenants
- Sensitive to tenants' circumstances
- Follow procedures as outlined in this policy
- Meet responsibilities under the Residential Tenancies Act 2010
- Ensure all relevant policies and forms are accessible to tenants

Tenancy arrangements surrounding rent payments and arrears are regarded as sensitive information. Information of this nature is not divulged to another party without the prior written consent of the tenant.

Many Rivers monitors compliance with our policy and procedure framework, AHO policies and relevant legislative requirements.

NCAT APPLICATIONS AND TERMINATIONS

All tenants are supported to maintain tenancy through each step of the escalation process, including before, and during, any NCAT application.

Many Rivers will issue a termination notice under section 89 of the Residential Tenancies Act 2010 due to the non-payment of rent when the escalation ladder process directs it and all requirements of lodgement have been reached.

- The rent must have been in arrears for at least 14 days when the Termination Notice is given
- The termination notice states that the tenant is not required to vacate the property if they pay all the rent owing or agree to and comply with a repayment plan with your organisation

In exceptional circumstances, and as a last resort, Many Rivers Regional Housing may issue a Termination Notice under Section 85 of the Residential Tenancies Act 2010. This occurs following serious breaches of the RTA such as extreme violence, illegal activity, and wilful property damage.

Termination Notices can be issued on the following grounds;

1. End of Fixed Term – Section 84 of the Act
No earlier than 30 days after the day on which notice is served or on or after the day the term of the Tenancy Agreement ends, whichever is later.
2. End of Periodic Agreement – No grounds – Section 85 of the Act
Termination Date: Not earlier than 90 days after the day on which notice is served.
3. Breach of Agreement – Section 87 of the Act
Tenant has breached the Tenancy Agreement in a particular manner.
4. Non-Payment of Rent – Sections 88 and 89 of the Act

Rent is unpaid for 14 days or more prior to notice being served, thus the tenant is in breach of the Tenancy Agreement. If the tenant pays all the rent owing or enters into and fully complies with a repayment plan agreed with the Landlord/Agent, then the tenant is not required to vacate the premises unless the Tribunal makes a Termination Order on the basis that the tenant has frequently failed to pay rent on time (Section 89 (5) of the Act).

5. Agreement is Frustrated – Section 109 of the Act – The agreement has become frustrated. Reasoning is required.
6. Termination to a Deceased Tenants legal personal representative (separate and specific Termination Notice).
7. Domestic Violence Termination Order Section 105C of the Act.

Termination of tenancy is carried out only when support and advocacy steps have been attempted.

TENANCY SUPPORT: INTERAGENCY REFERRAL AND ADVOCACY

Many Rivers works with all tenants to sustain tenancies. This is achieved through early intervention and strong tenant relationships. Many Rivers encourages tenants to contact their Housing Support Officer as soon as possible if they believe they need assistance with sustaining their tenancy.

Interagency referrals and advocacy are undertaken to assist and support tenants to sustain their tenancy. Many Rivers facilitates access to support services via our interagency support database and networks. These external relationships are developed and maintained via service provider interagency networks, partnerships (formal and informal) and community connections.

Many Rivers respects and maintains tenants' right to self-determination, agency and autonomy. Many Rivers does not require tenants to access support services or action referrals to maintain their tenancy. At all times, the decision to access services remains at the tenant's discretion.

TENANT DAMAGE

Many Rivers is committed to maintaining quality housing and enduring housing stock for all our partner owning organisations.

Tenants responsibility under the Residential Tenancy Agreement in relation to tenant damage include;

- Not to damage or allow others to damage the property.
- To notify Many Rivers as soon as practicable of any damage to the property.
- To repair any damage caused or compensate Many Rivers for the reasonable cost of the repair.

Many Rivers will arrange urgent repairs for any damage which causes a health and safety risk to the tenant and property. For damage which is deemed to be 'tenant damage', Many Rivers will ensure the tenant is advised of the reasonable cost of repair within 30 days of the date of invoice and, if necessary, provided with a payment plan arrangement for the payment of invoice.

Tenant damage that is not deemed to cause a health and safety risk to the tenant(s) and/or significantly alter the condition of the property is the tenant's responsibility to repair. Many Rivers can support the tenant to arrange suitable repairs at the tenant's expense, if needed.

DOMESTIC VIOLENCE

Many Rivers is committed to supporting tenants who are victims of domestic violence. Many Rivers provides a referral for tenants to support agencies when domestic violence is noted or advised.

A tenant is permitted to change locks and security devices immediately and without prior approval from Many Rivers, if they have a provisional, interim or final AVO which prohibits another tenant or occupant from accessing the property. The tenant must provide a set of new keys to Many Rivers within 7 days of locks being changed, unless otherwise agreed.

A tenant can end their fixed-term or periodic tenancy immediately, without penalty, if the tenant or their dependent child is in a domestic violence situation. A tenant (or their dependent child) is understood to be in a domestic violence situation if they:

- Were the victim of a domestic violence offence during the tenancy
- Are protected by an in-force provisional, interim or final Domestic Violence Order (DVO)
- Are protected against family violence by an in-force family law injunction
- Have been declared by a medical practitioner to be a victim of domestic violence, perpetrated by a domestic violence offender during the current tenancy

A tenant who ends their tenancy in circumstances of domestic violence is not liable to pay any compensation or additional money for the early termination.

Maintaining Tenancy Escalation ladder

	Triggers to enter level	Actions to be undertaken	Time period before escalation
Goal	100% of the rent is being paid and arrears are stable or decreasing	Nil	N/A
Step 1 Tenancy of concern Support, Plan & Monitor Arrears Letter 1	<100% of the rent is being paid Arrears are increasing	Tenant is informed in person or by phone: <ul style="list-style-type: none"> <input type="checkbox"/> Awareness of the situation and impact on the community asset and property management services <input type="checkbox"/> Establish any challenges to pay rent <input type="checkbox"/> Informed of the escalation steps Interventions <ul style="list-style-type: none"> <input type="checkbox"/> Establish any challenges to pay rent <input type="checkbox"/> Provide referral(s) to appropriate services <input type="checkbox"/> Negotiate a Many Rivers payment plan 	2 months
Arrears Letter 2		<ul style="list-style-type: none"> <input type="checkbox"/> Tenant provided letter outlining 1) recommended support services, 2) agreed payment plan and 3) time frame for next escalation step and consequences of next escalation (incl. notification of the Owning Org when escalated) <input type="checkbox"/> Phone contact should also be made to notify tenant of the letter. 	
Arrears Letter 3 FINAL		<ul style="list-style-type: none"> <input type="checkbox"/> If after 2 weeks of the payment plan there has been no change, tenant provided letter outlining 1) recommended support services, 2) agreed payment plan and 3) time frame for next escalation step and consequences of next escalation (incl. notification of the Owning Org when escalated) <input type="checkbox"/> Phone contact should also be made to notify tenant of the letter. 	
Step 2 NCAT - 1	All actions at Step 1 completed and timeframes expired.	<ul style="list-style-type: none"> <input type="checkbox"/> Prepare brief with evidence of steps completed for approval by the Manager Housing and Tenancy Services <input type="checkbox"/> Tenant informed in person or by phone that the timeframes have expired and NCAT orders are being sought <input type="checkbox"/> Application to NCAT for eviction with request for orders of payment plan at Tribunal hearing 	1 month of monitored NCAT payment plan with contact (letters and phone/in person) made at: <ol style="list-style-type: none"> 1. Initiation 2. 2 weeks (if non-compliant)
Step 3 NCAT -2	All actions at Step 2 completed and timeframes expired.	<ul style="list-style-type: none"> <input type="checkbox"/> Prepare brief with evidence of steps completed for approval by the Manager Housing and Tenancy Services and CEO <input type="checkbox"/> Tenant informed in person or by phone that the timeframes have expired and NCAT orders are being sought <input type="checkbox"/> Application to NCAT for eviction 	
Step 4 Eviction			