



END OF TENACY POLICY

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ENDING A TENANCY POLICY

1. POLICY STATEMENT

The ending of any tenancy complies with the legal requirements. Many Rivers makes every effort to support all tenants, including vulnerable and at-risk tenants, to sustain their tenancies and creating stable housing.

2. PURPOSE

The policy is intended to:

- Ensure that the requirements under the Residential Tenancies Act 2010 for ending a tenancy are understood and adhered to
- Ensure that the end of a tenancy is fair, efficient and effective
- Ensure natural justice for our tenants.
- Ensure tenancies are ended compassionately when a tenant dies.

3. SCOPE

All properties managed by Many Rivers.

4. DEFINITIONS

Partner or Owning Partner: An owner of community housing for whom Many Rivers delivers property management services.

5. REASONS FOR A TENANCY ENDING

5.1 Terminated by tenant

If a tenant wants to end a residential tenancy agreement, they must provide Many Rivers with a termination notice giving the following amount of notice in accordance with the Residential Tenancies Act 2010.

- 14 days notice before the end of the fixed term to end the agreement on or after the end of a fixed term.
- 21 days notice to end a continuing tenancy.
- 14 days notice if the landlord has breached the residential tenancy agreement.

Many Rivers may, at its discretion, agree to lesser periods of notice. All such decisions will be made by the CEO.

5.2 Termination by Many Rivers

Many Rivers may terminate a tenancy for the following reasons.

- Breaches of the Residential Tenancy Agreement (RTA) incl. non-payment of rent
- 90 days notice with no grounds (without a reason). This is only used as a last resort. See details below.
- Uninhabitable or destroyed property
- Management reasons
- In situations of domestic violence to remove perpetrator from lease.
- Agreement has become frustrated¹

When a termination is sought by Many Rivers, it will be done in writing and will involve an application to the NCAT for a hearing and a decision.

¹ A frustrated contract is a contract that, subsequent to its formation, and without fault of either party, is incapable of being performed due to an unforeseen event (or events), resulting in the obligations under the contract being radically different from those contemplated by the parties to the contract

Breach of Residential Tenancy Agreement (terminated by Many Rivers)

Many Rivers takes action to end a tenancy for a breach only after other appropriate housing management options have been fully explored.

When Many Rivers appears at NCAT and an acceptable performance agreement can be reached with the tenant, the goal is to maintain the tenancy. An order terminating a tenancy when a tenant is willing to make an agreement, will only be sought following repeated unresolved breaches by the tenant or where violence to other people or extreme damage to property is an expected outcome of continuing the tenancy.

No cause termination, Section 85 of Residential Tenancy Act (terminated by Many Rivers)

Many Rivers' mission is to Close the Gap in Aboriginal Wellbeing through housing partnerships and community development. Stable and quality housing for our tenants is a pillar of our Strategic Plan. Many Rivers use of "without cause" Notices of Termination must align with our organisational mission and strategic goals. For clarity, it is to be used as a case of last resort.

Under section 85 of the Residential Tenancies Act 2010 a landlord may issue a notice of termination for a periodic agreement provided that not less than 90 days' notice is given.

Many Rivers will only issue a notice of termination under section 85 of the Residential Tenancies Act 2010 in exceptional circumstances approved by the CEO. The CEO must be convinced that all other options have been exhausted and that Many Rivers failure to act will result in us failing in our duties and responsibilities as a community housing provider.

Many Rivers will make every attempt to secure alternative accommodation for the tenant during the 90 day notice period.

Many Rivers may issue a 90 day notice to a tenant if vacant possession of the property is required for redevelopment or disposal of the property, and the tenant has refused offers of a transfer to suitable alternative accommodation. This policy would only be used in exceptional circumstances where negotiations to relocate the tenant had failed.

If the tenant wishes to appeal against the Notice of Termination, this appeal must be made in writing within 21 days of the tenant receiving the notice. See Complaints and Appeals Policy.

Management reasons (terminated by Many Rivers)

Many Rivers recognises that stable tenancies support wellbeing. For this reason, Many Rivers endeavours to minimise terminations for management reasons.

When no other alternative can be identified, a tenant may be asked to move from their current property for:

- Effective use of housing stock, including addressing over or under occupation, or to make best use of a property's special features.
- Imminent sale or redevelopment of the site
- Renovation of the property

5.3 Abandonment

When a tenant leaves their property without providing appropriate notice, they have not legally vacated their property and have instead abandoned it.

Many Rivers will consider that a tenant has abandoned a property only if it is clear that the tenant is not living there. Many Rivers usually finds out that a tenant has abandoned their property through:

- Neighbours advising Many Rivers that no one is living there
- The tenant not maintaining the property
- The tenant not paying rent.

If Many Rivers suspects a tenant has left their property without giving notice, we will inspect the property and make enquiries. If Many Rivers is reasonably sure the tenant has abandoned the property, it will start action at the NSW Civil and Administrative Tribunal (NCAT) to take possession of the property under Section 106 of the

Residential Tenancies Act 2010 so that it can make the property available for another tenant. Many Rivers has the right to seek compensation at the NCAT for loss of rental income and property damage.

5.4 Imprisonment

Tenants imprisoned for longer than 6 months may have their Residential Tenancy Agreement terminated.

5.5 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 (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 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 or 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.

In situations of domestic violence, Many Rivers may terminate a lease to remove perpetrator from lease.

5.6 Death of a Tenant

When a tenant dies and there is no co-tenant on the Residential Tenancy Agreement the property is classified as vacated. For further details see Death of Tenant Procedure.

6. JOINT TENANCIES

When a joint tenancy is ended by one tenant a new lease will be made with the remaining tenant. If the tenancy is in arrears, the arrears will be noted at NCAT and carried over as an addendum to the new lease.

7. VACATING A PROPERTY

7.1 Obtaining vacant possession

Many Rivers will serve notices in accordance with the requirements of the Residential Tenancies Act 2010.

A notice to a person must be in writing and may be served by:

- Posting the notice to the person's residential, or business, address or if an address is not specified, the person's last known residential or business address. When posting notices, an additional 4 working days will be allowed for postal delivery.
- Hand delivering the notice to the person or a person believed to be 16 years of age or older at the persons residential or business address
- Delivering the notice in an envelope addressed to the person and leaving it in the person's mailbox at their residential or business address.

If the tenant has not moved out by the date specified on the notice, Many Rivers has 30 days to apply to the NCAT for an order terminating the agreement and an Order of Possession.

Tenants can only be physically removed from premises by a Sheriff once a Warrant of Possession has been obtained from the NCAT. If the tenant fails to move out by the date specified on the Order of Possession, Many Rivers may apply for a Warrant of Possession. A Warrant of Possession must only be obtained with prior approval from the CEO.

7.2 Responsibilities – Tenant

Tenants are required to pay rent until the date that the property is handed back.

The tenant is responsible for returning the property in the condition that it was in at the start of the tenancy (excluding fair wear and tear). After conducting the end of tenancy inspection, Many Rivers will discuss any tenant damage, cleaning issues, or unauthorised works with the tenant. The tenant will be given the opportunity to rectify any outstanding issues. The tenant will be given a reasonable opportunity to carry out the cleaning/repairs. A daily occupation fee will be charged for each day the tenant has possession of the premises. If the tenant declines the request to rectify the cleaning, gardening or repairs, Many Rivers will engage a contractor to carry out the work and the costs will be charged to the tenant.

Keys must be returned to Many Rivers by the tenant on or before the vacating date. Many Rivers is entitled under the Act to continue to charge rent until they are returned, or if the tenant fails to return the keys, they will incur the cost involved in having the locks changed and new keys cut.

If a tenant vacates a property and the Sheriff's fee, outstanding rent arrears, debt or the cost of end of tenancy cleaning, gardening and/or repairs exceeds \$500, Many Rivers may apply to the NCAT for an order for compensation.

Many Rivers may record the debt of a former tenant on the NSW Housing Register where permitted by law

7.3 Responsibilities – Many Rivers

When a tenancy ends, Many Rivers will:

- Give tenants information about their rights and responsibilities on vacating the property
- Conduct an outgoing property inspection using the original condition report as a reference and identify any repairs and maintenance which are the responsibility of the outgoing tenant
- Give the tenant the opportunity to do any cleaning, minor repairs, garden maintenance
- Carry out any repairs or maintenance on the property that are essential for letting the property or that are best carried out on a vacant property, and plan any other outstanding maintenance
- Take a final water meter reading and invoice the tenant for the water usage owed within that billing period.
- Take action through NCAT for any outstanding rent arrears, debt or end of tenancy charges or for an order to off-set any credits towards arrears, debt or end of tenancy charges.
- Reconcile the tenant's rent account and repay any overpayment of rent or take steps to collect any underpayment of rent.
- Draw up a final account for any other outstanding debts the tenant has with the organisation.
- Record a forwarding address on the ex-tenant file (if known) and details of any debts and arrangements for repayment.
- Re-let the vacant property as soon as is practicable.

7.4 Tenant's possessions

If goods remain in the home two working days after the tenant has moved out, or when a property is abandoned, an officer from Many Rivers and a witness (where possible) will inspect the property. The inspection will involve:

- Removing and disposing of any perishable goods including foodstuffs and rubbish
- Documenting (incl via photographs) the goods left in the home and the condition of those goods

Residential Tenancies Act 2010 (Section 127) requires Many Rivers to give the former tenant notice that the goods will be disposed of after 14 days. This Notice may be given in the following ways:

- In writing to the former tenant or legal representative

- Verbally in person or by telephone (and noted in Chintaro).

Where the former tenant claims goods, they may be asked to pay an occupation fee per day for each day the goods are left on the property or in storage, which at a maximum is equivalent to the rent per day, and must not exceed, in total, the amount of rent for 14 days.

If the goods are not collected within 14 days, Many Rivers can arrange for disposal of the goods in any lawful manner.

Where personal documents remain in the property 2 working days after the tenant has moved out, or when a property is abandoned, Many Rivers is required by the Residential Tenancies Act 2010 (Section 127) to give the tenant notice that the documents will be disposed of after 90 days.

Personal documents include:

- a birth certificate, passport or other identity document
- bank books or other financial statements or documents
- photographs and other personal memorabilia
- licences or other documents granting authorities, rights or qualifications
- any other record, or class of record, prescribed by the regulations.

If these documents are not claimed within 90 days, Many Rivers will return personal documents to the authority that issued them or if this is not practical, dispose of them in a lawful manner that will not result in the tenant's personal information becoming publicly available.

Many Rivers can seek direction from the NCAT under the Residential Tenancies Act 2010 (section 133) if any issues arise as to the disposal of goods.

8. OTHER RELATED DOCUMENTS

Complaints and Appeals Policy
Arrears Management Policy
Housing Application Form
Conflict of Interest Policy
Transfer Policy