

Ending a Tenancy Policy – Retirement and Independent Living

Applies to Property and Housing

Retirement and Independent Living – all rental programs

Policy Statement

The purpose of this policy is to explain the circumstances and action to be taken when a tenant ends a tenancy or Uniting ends a tenancy.

This Policy set out Uniting's requirements and processes for ending a tenancy.

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1 Purpose

This Policy will cover ending a tenancy for the different rental programs Uniting manages in accordance with the NSW Residential Tenancies Act 2010 or ACT Residential Tenancies Act 1997.

This policy applies to all tenants under a Residential Tenancy Agreement to ensure that:

- legal requirements for ending a tenancy are understood and adhered to
- the end of a tenancy is fair, efficient and effective
- legal obligations as a landlord and tenant under the Residential Tenancies Act are adhered to.

2 Scope

This policy is applicable to all rental programs within retirement and independent living.

3 Compliance

This policy becomes part of retirement and independent living suite of documents. Retirement and independent living within Uniting has an obligation to comply with requirements set out in the residential tenancies act.

4 Policy statements

4.1 Ending a tenancy

A tenancy is either ended voluntarily through notice or terminated through the Tribunal.

Uniting recognises there are several reasons tenancies may end. Some are voluntary, where tenants indicate they wish to leave their tenancy and move to an alternative accommodation.

On other occasions it may be necessary for Uniting to initiate ending a tenancy where there is a breach of the Residential Tenancies Act. Where a tenant has breached a term of their Residential Tenancy Agreement, they will be advised in writing and given every opportunity, support and assistance to rectify the problem and to sustain their tenancy.

The tenancy may also be terminated where the tenant no longer meets the eligibility criteria for the housing program the property is funded through.

Tenant initiated termination

Tenants are required to give written notice to Uniting of their intention to vacate a property.

Tenants are required to give:

Rental Type	State	Notification Period
Fixed term	NSW	14 days notice before the end of a fixed term to end the agreement on or after the end of a fixed term
	ACT	At the end of a fixed term residential tenancy agreement, for example at the end of a 12month tenancy, the tenant can terminate the tenancy by giving the lessor 3 weeks written notice.
Periodic	NSW	21 days notice to end a periodic tenancy
	ACT	3 weeks' notice specifying the date vacating the premises. If a tenant vacates without notice during a periodic tenancy, they will be liable for up to 3 weeks' rent in lieu of notice.

Table 1: Rental termination notification period

Tenants are required to continue to pay rent until the end of the notice period. If a tenant vacates the property and returns the key before the end of the notice period, and a new tenant is able to commence the tenancy during the notice period, the departing tenant is entitled to a refund of any rent paid for the period after the new lease agreement starts.

Uniting may, at its discretion, agree to lesser periods of notice. All such decisions will be made by the relevant manager.

When a joint tenancy is ended by one tenant, the existing tenancy will be terminated and arrangements will be made with the remaining tenant. This may include signing a new tenancy agreement for the current property or transferring the remaining household to a more suitable property.

Uniting initiated termination

Circumstances leading to the tenancy being ended by Uniting include, but are not limited to:

- Breaches of the Residential Tenancy Agreement
- Abandonment by the tenant
- Death of a tenant
- Management objectives
- The tenant no longer meets the eligibility criteria for the housing program the property is funded through.

Where a tenant has breached a term of their Residential Tenancy Agreement, they will be advised in writing and given every opportunity and possible support to rectify the problem.

Where the breach has not been rectified Uniting will apply to the relevant Tribunal for a Specific Performance Order.

Where there is a serious breach and the tenant does not rectify the problem or comply with a Specific Performance Order, Uniting will issue a Termination Notice and apply to the Moderator for permission to terminate the tenancy. If approval is given, an

application to the Tribunal to terminate the tenancy and repossess the property will be made in line with the relevant Residential Tenancies Act.

Uniting will:

1. Advise tenants of their rights and responsibilities when a notice of termination is issued and when legal action is taken at the Tribunal that may result in their tenancy being terminated.
2. Ensure tenants have access to tenancy advice, interpreters and support if their tenancy is threatened or is ending.

If a tenant is given a notice of termination from the landlord, the tenant may leave the residential premises at any time before the termination date and not be liable to pay rent unless the termination notice is for the end of a fixed term and the tenant leaves before the end of the fixed term.

Section 85 no grounds termination notice

Under section 85 of the NSW Residential Tenancies Act 2010 a landlord may issue a no grounds notice of termination for a periodic agreement provided not less than 90 days notice is given. Uniting recognises that a no grounds notice is a last resort available within the Residential Tenancies Act 2010.

Uniting will only issue a notice of termination under section 85 of the NSW Residential Tenancies Act 2010 in rare and exceptional circumstances, for example, where the tenant is committing acts of extreme violence or behaviour that constitutes a serious risk of injury or danger to persons or properties.

A Section 85 no grounds termination notice can only be issued with the approval of the Head of Village Services and the Moderator.

Abandonment

Where a tenant has abandoned the property, Uniting can apply to the Tribunal for an order declaring that the premises are abandoned and for a change of locks. Where there is no doubt that the property has been abandoned, Uniting can change the locks and take possession.

Death of a sole tenant

When a tenant dies the tenancy does not immediately end.

Where a sole tenant has died, Uniting will liaise with the tenant's family and /or legal representative to deal with the contents of the property and to end the tenancy.

Either the landlord or the legal personal representative of the deceased tenant can give a termination notice to the other person. The termination date can be before the end of the fixed term for fixed term agreements. The Tribunal can terminate a tenancy if vacant possession is not given by the date specified in the notice.

If the person responsible for the deceased tenant's estate is given a notice of termination, they can give vacant possession at any time before the date specified in the notice. The deceased tenant's estate is not liable to pay rent for any period between giving vacant possession and the termination date specified in the notice.

In circumstances where there is no known next of kin or executor, Uniting will liaise with the police to ascertain if the tenant has any next of kin.

In cases where there is no next of kin or executor, the NSW Trustee & Guardian may consider managing the tenant's affairs if there are funds available to do so. The NSW Trustee & Guardian will not deal with a case if there are no funds or assets available.

Where it has been established there is no next of kin or executor, the tenancy can be ended immediately as it is known that the tenant has not abandoned or will return.

Uniting will dispose of any goods left in the property in accordance with the relevant Residential Tenancies Act.

Succession of a tenancy where there has been the death of a sole tenant will be in accordance with Uniting's *Tenancy Succession Policy and Procedure*.

Management objectives

A tenant may be asked to move from their current property for management reasons which may include, but not limited to:

- Redevelopment of the site
- Renovation of the property

If the tenancy is terminated by Uniting due to management reasons, the tenant will be offered two offers of alternative housing and Uniting may cover the removalist cost.

Uniting is committed to transferring tenants via mutual agreement and avoiding legal proceedings, however, if a tenant declines two offers of alternative housing, Uniting will terminate the tenancy in accordance with the relevant section of the Residential Tenancies Act.

Tenant no longer meets the eligible criteria for the property funding program

When a tenant is no longer eligible because they no longer meet the eligibility criteria for the program the property is funded under, the tenant will be advised in writing. Uniting will end the tenancy in accordance with the relevant section of the Residential Tenancies Act.

Property is uninhabitable or destroyed

When a property becomes uninhabitable due to flood, fire or other causes, termination of the tenancy takes immediate effect.

When a tenancy ends, the tenant can expect Uniting to:

- Conduct a property inspection and identify and repairs and maintenance which are the responsibility of the outgoing tenant.
- Give the tenant the opportunity to do any cleaning, minor repairs and maintenance.
- Reconcile the tenant's rent account and repay any overpayment of rent or take steps to collect any underpayment of rent.
- Record a forwarding address on the ex-tenant file (if known) and details of any debts and arrangements for repayment.

4.2 Bond

A tenant must ensure they leave the property in an appropriate standard as when they moved in. If there are no outstanding arrears or costs, the Village Manager will request that the bond be refunded in full.

Where there are arrears or a debt, the tenant may lose part or the entire bond if the arrears/debt are not rectified before the end of the tenancy.

4.3 Goods left behind at the end of a tenancy

Tenants are responsible for ensuring all belongings are removed from the premises at the end of the tenancy. When goods have been left behind an inventory (and photos) will be taken of all abandoned goods.

Perishable items and worthless goods will be disposed of. Procedure for disposal or storage of other items will be as laid down in the Residential Tenancies Act 2010.

<https://www.fairtrading.nsw.gov.au/trades-and-businesses/business-essentials/selling-goods-and-services/uncollected-goods#:~:text=Landlords%20can't%20charge%20tenants,No%20other%20charges%20are%20due.>

4.4 Right to appeal

If a social housing and SAHF Affordable Housing tenant disagrees with a decision Uniting has made, they should first discuss their concerns with the relevant person and if the matter is not resolved may ask Uniting for a formal review of the decision by requesting an Appeal form. If they are unsatisfied with the outcome of the review they can appeal to the NSW Government's Housing Appeals Committee:

<http://www.hac.nsw.gov.au/>

4.5 Rental reference

A tenant will be eligible for a rental reference if:

- Rent was paid up to date and has paid regularly for the previous six months
- No proven complaints have been received against the tenant
- Notice has been properly given
- The property has been left in an acceptable condition
- Keys have been returned to Uniting.

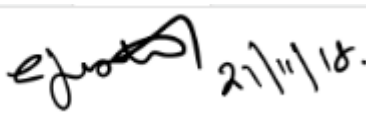
5 Legislation and standards

- [Residential Tenancies Act 2010](#) (NSW)
- [Residential Tenancies Act 1997](#) (ACT)

6 Related Policy Documents and references

- [Absence from Property Policy - Retirement and Independent Living](#)
- [Tenancy Succession Policy - Retirement and Independent Living](#)
- [Tenancy Succession Procedure - Retirement and Independent Living](#)
- [NSW Fair Trading Ending Tenancies Factsheet](#)
- [The Renting Book](#) (ACT)

7 Document governance

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Responsible Person	Katherine Wight Tenancy Management Specialist		
Approved by: Director of Practice and Quality, Uniting November 2018	Director GRQ *[Digital Signature]  21/11/18.		

8 Revision history

Version	Description of changes	Revised By	Date
1.0	New policy.	Katherine Wight	22-Nov-2018
2.0	Document reviewed and no change in content. Updated links.	Katherine Wight Rameez Khan	16-Jun-2023