

# Ending Tenancy Policy (New Zealand)

## 1. Purpose

To explain the circumstances and actions to be taken when HOME in PLACE (New Zealand) Limited (HOME in PLACE NZ) or a tenant seeks to end a tenancy.

## 2. Scope

This Policy applies to HOME in PLACE (New Zealand) Limited (HOME in PLACE NZ) and its directors, Governance Committee and Advisory members and Employees (or Workers) engaged to carry out business activities on behalf of HOME in PLACE NZ.

## 3. Policy Statement

This policy covers ending tenancy within the legal requirements of the *Residential Tenancies Act 1986*. The aim of the policy is to:

- Ensure the legal requirements for ending a tenancy are understood and adhered to by HOME in PLACE NZ employees and tenants;
- Ensure that the end of tenancy is fair, efficient and effective for all;
- Adhere to our legal obligations as landlord under the Residential Tenancies Act 1986;
- Ensure the principles of natural justice are applied; and
- Have efficient administration and record keeping at the end of tenancy.

HOME in PLACE NZ recognises that tenancies end for a variety of reasons. This includes where a tenant indicates they wish to leave their tenancy or where HOME in PLACE NZ initiates ending a tenancy due to the sale of the property, for renovations, disposal or redevelopment.

HOME in PLACE NZ may also initiate a termination of a tenancy where there is a breach of the *Residential Tenancies Act 1986*. Where a tenant has breached a term of their tenancy agreement, they will be advised and given every opportunity to remedy the breach. HOME in PLACE NZ is committed to ensuring the long-term sustainability of tenancies within the context of maintaining the viability of the organisation. HOME in PLACE NZ will work with tenants to resolve any breaches and disputes relating to the tenancy. HOME in PLACE NZ views legal proceedings as an action of last resort when all avenues for resolving the breach have been exhausted.

## Guiding Principles

HOME in PLACE NZ will:

- Advise tenants of their rights and responsibilities when a notice of termination is issued and when action is taken at the Tribunal that may result in their tenancy being terminated;

- Ensure tenants have access to independent tenancy advice, interpreters and support if their tenancy is threatened or is ending;
- Only issue notices of termination in accordance with the Residential Tenancies Act 1986;
- Advise tenants what is required of them to meet their legal obligations when their tenancy ends, regardless of the reason for the tenancy ending; and
- Ensure belongings or abandoned goods are managed in accordance with the requirements of the Residential Tenancies Act 1986.

## Reasons for Ending a Tenancy

### *Tenancy ended by tenant*

If a tenant wants to end a tenancy agreement, they are required to provide the landlord with a termination notice giving the following notice periods in accordance with the Residential Tenancies Act 1986:

- Fixed term tenancy – notice cannot be given to end the fixed term early. To end the tenancy on the scheduled expiry date of the fixed term, notice of at least Twenty-eight (28) days before the expiry date must be given; or
- Twenty-eight (28) days' notice if they are on a periodic or continuous tenancy agreement.

### *Tenancy terminated by HOME in PLACE NZ*

Circumstances leading to a tenancy being ended by HOME in PLACE NZ include, but are not limited to:

- Breach of the tenancy agreement;
- Management objectives;
- Abandonment by tenant;
- Death of a sole tenant;
- Property is uninhabitable or destroyed

### *End of tenancy for a breach of the tenancy agreement*

- HOME in PLACE NZ takes action to end a tenancy for a breach of the tenancy agreement only after all other options have been fully explored;
- When HOME in PLACE NZ takes action, the objective is to maintain the tenancy by reaching an agreement with the tenant.
- Action in the Tenancy Tribunal will be taken where there are repeated unresolved breaches or where there is a serious breach of the tenancy agreement, for example, assault of staff, damage to premises, antisocial behaviour or premises used for illegal activity.

### *End of tenancy for management objective*

A tenant may be asked to vacate a property for management reasons, this may include:

- Over or under occupation
- Redevelopment of the site
- Major renovation of the property

HOME in PLACE NZ will endeavour to assist tenants with rehousing options.

### *End of tenancy due to abandonment*

HOME in PLACE NZ will make all enquiries by:

- Trying to contact the tenant and if contact is made, asking the tenant to confirm in writing that they are returning possession of the property.
- If contact cannot be made, ensuring that the tenancy is Abandoned, and all requirements are met before entering the property.

If, after making enquiries with the tenant and or neighboring tenancies, or accessing the property following the correct notice provided, HOME in PLACE NZ believes the property has been abandoned, an Expediated Abandonment Application will be made to the tenancy tribunal for an order of vacant possession. Goods or belongings left at the premises will be managed in accordance with the requirements of the Residential Tenancies Act 1986.

### *End of tenancy due to premises being uninhabitable*

If the premises are deemed uninhabitable, the rules for ending the tenancy are the same for a periodic or fixed-term tenancy. The landlord or the tenant can give notice to end the tenancy by:

- Landlord must give at least seven (7) days' notice; and
- Tenants must give at least two (2) days' notice.

Note; if the damage was caused by a breach of the tenancy agreement, the person who caused the damage may not give notice to end the tenancy.

### *End of tenancy due to family violence*

A tenant may withdraw from a tenancy by giving at least 2 days' notice to the landlord and providing appropriate evidence of the family violence.

### *Death of sole tenant – no remaining occupants*

A tenancy does not automatically end if a sole tenant passes away. The tenancy agreement terminates on the earliest of the following dates:

- The date that is the 21st day after the date on which the personal representative of the tenant, or a person who is the tenant's next of kin, gives the landlord written notice of the death of the tenant;
- The date that is the 21st day after the landlord gives the personal representative of the tenant, or a person who is the tenant's next of kin, written notice to vacate the premises;
- The date that is agreed in writing by the landlord with the tenant's personal representative of next of kin.

HOME in PLACE NZ recognises that there may be cultural or religious reasons why the tenant's personal representative, or next of kin, needs to keep possession of the property for a period following the tenant's death. HOME in PLACE NZ will consider such requests on a case by case basis. Rent will continue to accrue until the property is handed back to the landlord.

### *Remaining Occupants*

There is an eight-week process to manage a death of a sole signatory when there are other occupants (usually family members) residing in the property. HOME in PLACE will support the remaining occupants to

find suitable housing which may result in occupants staying in the current property upon a successful succession of tenancy approval. HOME in PLACE will charge rent at market rent value for up to eight weeks from notifying the household until the tenancy has ended.

### *Occupants under 18 years of age*

If the remaining occupants do not qualify for public housing due to their age, HOME in PLACE may consider approving a guardian to move into the property to care for the remaining occupants. HOME in PLACE will consider the needs of the remaining occupants, the suitability of the guardian or family member and their eligibility for public housing and if the property meets the needs of the household when making this decision.

### *Contacting the occupants residing in the property*

If there are occupants still residing in the property, Home in Place will allow 10 working days from the date of the notification before contacting the household to arrange a time to meet. The meeting will take place within five working days of contacting the household.

If the occupants are unwilling to meet, Home in Place should issue a 21 day notice to vacate the property.

The meeting with the household is to offer HOME in PLACE condolences and discuss the next steps including a date to end the tenancy. The tenancy end date can be up to a maximum of five weeks from the date of the meeting.

If the occupants would like to stay in the property, HOME in PLACE will support them with their application for housing with MSD. This may include contacting MSD to arrange a housing assessment and assisting them to provide the relevant documents required.

Immediately following the meeting, HOME in PLACE will send a letter to the household that outlines what was discussed and the agreed tenancy end date. A copy of this letter will also be provided to MSD to support the household's application for housing.

**Note:** the tenancy end date should allow for the application process to be completed, that is, 20 working days from the assessment date.

### *Housing assessment*

During the assessment the household will be advised that they have 20 working days to complete this process including providing verification to support their application. MSD will keep Home in Place informed of the progress of the application (through BOS), including:

- If the household do not attend their appointment
- If the assessment has been rebooked to another date
- the outcome of the assessment and priority rating (if eligible).

### *Housing assessment outcome*

If the household is not eligible for public housing, HOME in PLACE will advise the household that they will need to vacate the property by the agreed tenancy end date. If HOME in PLACE decide that the household may remain in the property after the agreed tenancy end date, the property will no longer be considered as public housing and will not be able to receive IRRS payments.

### *Household eligible for public housing – no change*

If the household is eligible for housing and the property is suitable for their needs (e.g. has the right number of bedrooms for the occupants), Home in Place will:

- End the tenancy for the deceased sole signatory
- Create a new vacancy
- Manually match the household to the vacancy by using the Identified Suitable Client process (refer to the BOS User Guide)
- Start a new tenancy agreement with the household.

### *Household eligible for public housing – change*

If the household is eligible for public housing but there is a change in their needs (e.g. the property has four bedrooms but the household has been assessed as requiring two bedrooms), HOME in PLACE will support the household to look for other options.

If HOME in PLACE are unable to find another suitable property before the tenancy end date, we will end the existing tenancy and start a new tenancy for the additional occupants to live in the current property until they can be matched to a suitable property.

### *Service of notices*

When a landlord or tenant serves or gives notice, it can be:

- Hand delivered to the other person, this can be done in person, by placing in the letterbox or by attaching it clearly to the door;
- Sent to the address for service listed on the tenancy agreement.

Notices can also be sent to a post office box, email address or a fax number if these options for service are listed as additional address for service on the tenancy agreement.

### *Service time*

A person is not deemed to have been served (or given notice) until the notices has been received, this is called 'service time'. Tenancy law gives timeframes for when it considers notices to have been received. These times depend on how the notice was delivered:

- Hand over in person, it's classed as received immediately;
- Left in the premises' letter box or clearly attached to the door, it's classed as received 2 working days after the delivery date;
- Posted to the address or post office box, it's classed as received on the 4th working day after the date it was posted;
- Sent to the email address or fax number after 5pm, it's classed as received on the next working day;
- Sent to the email or fax number before 5pm, it's classes as received on the same day.

Notice periods start the day after the notice is received.

### *Legal minimum notice periods*

HOME in PLACE NZ will, at all times, comply with the requirements of the Residential Tenancies Act 1986 in providing correct notice when ending a tenancy. Notice periods are set out in the legislation.

A notice of termination issued by the landlord or the tenant will:

- Be in writing;
- Identify the premises;
- Specify the date of vacant possession
- Be signed by the part giving the notice
- If notice given by the landlord, set out the reasons for the termination.

## **HOME in PLACE NZ Responsibilities**

When a tenancy ends the tenant can expect HOME in PLACE NZ to:

- Conduct a property inspection and identify any repairs, maintenance or cleaning that is identified as a tenant responsibility;
- Give the tenant, where practicable, the opportunity to complete any cleaning, minor repairs, garden maintenance;
- Finalise tenant's end of tenancy accounts, repay any credits, rental bond or take steps to collect outstanding debt;
- Have discussions with the tenant to settle any identified rent arrears or other charges;
- Record a forwarding address for the tenant;
- Record any outstanding debts or payment plans;
- Manage any belongings left at the premises by the tenant in accordance with the legislation.

## **Tenant Responsibilities**

- Continue to pay rent up to, and including, the final day of the tenancy;
- Cancel any services, for example, electricity, gas, internet;
- Remove all belongings;
- Leave the property reasonably clean and tidy, inside and out, and take away all rubbish;
- Return all keys to the landlord;
- Do not remove anything the landlord provided for you to use during the tenancy, for example, furniture and appliances;
- Provide the landlord with your forwarding address

## **Abandoned Goods**

When tenants vacate a property, they are required to remove all their belongings. Sometimes a tenant will move out and leave some things behind, this may be by mistake, forgotten or left to pick up later.

If a tenant leaves belongings behind HOME in PLACE NZ must follow rules when dealing with these items. It can sometimes be hard to tell if the goods left behind are rubbish or of value. HOME in PLACE NZ will take the following steps when dealing with goods left behind.

- If food or perishables goods are left behind these will be disposed of immediately;
- HOME in PLACE NZ will try to contact the tenant and give them a reasonable amount of time to collect any goods;
- If HOME in PLACE NZ is unable to make contact HOME in PLACE NZ will do one of the following:

### *Option 1. Apply to the Tenancy Tribunal*

HOME in PLACE NZ can apply to the Tenancy Tribunal for an order on how to deal with the goods, the Tribunal can order the goods to be:

- Disposed of;
- Returned to the tenant; or
- Sold by HOME in PLACE NZ.

The tribunal can make orders that the landlord use any money from selling the goods to offset against any claims the landlord has against the tenant. While waiting for a Tribunal hearing HOME in PLACE NZ will store the goods.

### *Option 2. – decide whether to store, dispose of, or sell the goods*

**Personal documents** – if the items left behind are personal documents, HOME in PLACE NZ will store them securely. If the documents are not claimed after 35 days, HOME in PLACE NZ will either continue to store them or give them to the police.

**All other goods** – HOME in PLACE NZ will take reasonable steps to assess the value of any goods. If the goods are worth:

- Less than the cost of storing, transporting and selling them, HOME in PLACE NZ can immediately dispose of them as they see fit (except for personal documents);
- More than the cost of storing, transporting, and selling them, HOME in PLACE NZ will secure the goods for at least 35 days from the day of possession. After 35 days, if the goods have not been collected, HOME in PLACE NZ will:
- Continue to store the goods until any claims are made by the tenant;
- Sell the goods at a reasonable market price.

If HOME in PLACE NZ sells the goods, HOME in PLACE NZ will deduct the cost of storing and selling the items. HOME in PLACE NZ reserves the right to take action in the Tribunal to recover any additional costs not covered by the sale of goods.

If a tenant claims goods that have been held in storage, HOME in PLACE NZ will claim for the cost of storage from the tenant.

## Review of Decisions

If a tenant disputes HOME in PLACE NZ decision to end a tenancy they should first discuss their concerns with the Tenancy Relations Officer. When a tenant does not vacate a property in accordance with a notice of termination, HOME in PLACE NZ may take action in the Tenancy Tribunal. If HOME in PLACE NZ takes this action the tenant will be notified and provided with the opportunity to formally dispute the decision to end the tenancy in the Tenancy Tribunal.

## 4. Definitions and Acronyms Glossary

For clarification of any definitions or acronyms contained within this document, please click on the [Glossary](#) for information.

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