

Notice to Vacate

A notice to vacate will effect virtually every Landlord at some stage in their property ownership.

A Notice to Vacate can be issued by either the landlord, or the tenant, and depending on the circumstances, the Notice period can vary.

To assist our landlords and Tenants in planning, we offer the following summary of common Notice Periods.

Mutual Notice

Regardless of a fixed term lease in place, at any time the parties can agree to end the tenancy agreement at a time which suits all parties. This is unusual, however like most agreements, the terms can be altered between the parties by agreement, and there are circumstances that occasionally support this.

Notice by the Landlord (or their Agent) to Tenant

Any Notice to Vacate provided by the Landlord (or their Agent) must be in writing, using a valid "Notice to Vacate" form, and must be either sent to the tenant by registered post, or given to the tenant in person. When posted, adequate time must be allowed to ensure the tenant has the minimum Notice Period from receipt of the notice.

Examples of when a Landlord can issue a Notice to Vacate to a tenant **during** a fixed term tenancy period include, but are not limited to;

Reason	Period
Malicious damage by the tenant or their visitor to the property	Immediate
Neighbours put in danger by the tenant or their visitor	Immediate
If the premises are unfit to live in (i.e sufficiently damaged by fire or storm)	Immediate
The tenant is in excess of 14 days late on their rental payment	14 Days
The premises are being used for illegal purposes	14 Days
The premises have been sub-let by the tenant without the landlords written consent	14 Days
The tenant breaches a VCAT compliance order or compensation order	14 Days
Following two previous "Breach of Duty" notices, the tenant undertakes the same breach again.	14 Days

Examples of when a Landlord can issue a Notice to Vacate **following** a fixed term tenancy period include;

Reason	Period
Planned renovations or repairs for which Permits have been issued	60 days
Planned demolition for which Permits have been issued	60 Days
The landlord or their immediate family wish to move into the property	60 Days
The property is to be offered for sale immediately after the tenancy period termination date	60 Days
The property is sold and all sale conditions have been meet	60 Days
It is the end of a fixed term tenancy for fewer than 6 months	60 Days
It is the end of a fixed term tenancy of 6 months or more	90 Days
No reason specified (must not be because a tenant is exercising their rights, or threatening to do so)	120 days

NOTE: It is important to note that in most circumstances, when a landlord gives notice to a tenant, the tenant can respond with a 14 Day Notice to Vacate. I.e. a landlord may give 120 days' Notice to Vacate for no reason, however the landlord may potentially have the property vacated in as little as 14 days.

Notice by the Tenant to the Landlord (or Agent)

Any Notice to Vacate provided by the tenant must be in writing, specify the reason for the Notice (if applicable), specify the date the tenant plans to leave, and be signed by the tenant. If mailed, it must be sent to the landlord (or Agent) with adequate time allowed for postage to enable the full notice period to be given.

Examples of when a tenant can issue a Notice to Vacate **during** a fixed tenancy period include:

Reason	Period
Premises destroyed, or partly destroyed and unsafe, or unfit to live in	Immediate
Landlord has breached VCAT compliance order or compensation order	14 Days
Tenant has already given 2 Breach of Duty notices to the Landlord, and the Breach occurs again	14 Days

Examples of when a tenant can issue a Notice to Vacate **following** a fixed tenancy period include:

Reason	Period
Tenant requires temporary crisis accommodation	14 days
Tenant requires special or personal care	14 Days
No Reason	28 Days

Important note: Regardless of who issues the notice, it is important for a landlord to appreciate that despite best intentions, things don't always go to plan. Hold-ups can occur, be they innocent, unavoidable, or intentional, and a tenant not vacate a property as notified. For this reason, due consideration should be made when re-leasing a property.

In summary, the management of Notice to Vacate notices is one of the most important elements of Property Management. It must be done in strict adherence to the Residential Tenancies Act, and in a manner to mitigate the number of vacant days our Landlord incurs.