

When you move out

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Notice of termination

A tenancy will usually be terminated by either the landlord or the tenant giving notice to the other party. However, in certain circumstances the Tribunal may be required to make orders to terminate a tenancy.

A notice of termination must:

- be in writing
- state the address of the premises
- be signed and dated
- allow the required period of time
- give the date **on** which the tenant intends to, or is requested to, move out (Note: do not use words such as 'by' or 'on or before' in the notice)
- give full details of all breaches (if any) or reasons for ending the agreement
- and, if given to a tenant, include a statement that information about their rights and obligations can be found in the tenancy agreement.

The notice can be posted or given personally. A notice cannot be stuck to or put under a door by the person sending the notice.

If the notice is sent by post at least 4 working days (not including the day the notice was sent) should be added to the amount of notice, to allow time for the notice to be delivered.

The notice period is counted from the day after the notice is served.

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Notice periods

When the fixed-term period of the agreement is due to run out, either party can give **14 days** notice to end the tenancy. This notice can be served up to and including the last day of the fixed-term.

Once the fixed-term period ends and it is not terminated by the tenant or the landlord, the agreement becomes a *continuing agreement*. Under a continuing agreement, a tenant is required to give at least **21 days** notice, and the landlord must give at least **60 days** notice to end the tenancy.

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What if the property is sold?

If a rented residential property is sold and the new owner wants it to be vacant when the sale is complete, the following notice periods apply.

During the fixed-term period of the tenancy

The tenant is entitled to the balance of any time remaining under the tenancy agreement. In these situations, the buyer has little option but to let the tenancy continue as it is inherited with the sale. However, the new owner and tenant can negotiate an agreement for the tenant to move out earlier and be compensated. Any agreement reached should be put in writing.

When the fixed-term period has expired

When the fixed-term period has expired and the tenancy is under a continuing agreement, the tenant must be given at least **30 days** written notice to vacate the property. The notice period can only be given after the current and new owner have exchanged the contract of sale.

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Notice on breach

A notice of termination may be given at any time if either party seriously or persistently breaches a term of the agreement, or if the tenant is more than 14 days in arrears of rent. At least **14 days** notice must be given in writing.

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Breaking an agreement early

If a tenant wants to end their agreement early they should give as much notice as possible, preferably in writing (keep a copy of the letter). It is a good idea to state the exact date you intend to leave and that you want the landlord (or agent) to find a new tenant. Any assistance in finding a replacement tenant (such as making the property readily available for inspection) may help to reduce the costs involved.

Having said this, breaking an agreement can be costly. A landlord can claim compensation for any loss they suffer as a result of a tenant ending the agreement early. The costs a tenant could be liable for include:

- rent until new tenants move in or the existing agreement runs out (whichever happens first)
- a reletting fee (usually one weeks rent) when the property is let by an agent who charges the landlord a fee for finding new tenants
- advertising costs.

For a landlord to successfully claim, they must be able to show that their loss was caused by the tenant breaking the agreement early, not by other factors. For example, if a tenant breaks the agreement just prior to the expiry date, the full amount of reletting and advertising charges may not be able to be passed on since the landlord would have incurred these expenses shortly anyway. The landlord also has a duty to keep their loss to a minimum. This means that the landlord must make a reasonable effort to find a new tenant, otherwise any claim they later make may be reduced by the Consumer, Trader and Tenancy Tribunal.

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Undue hardship

A tenant or landlord can at any stage of the tenancy apply to the Consumer, Trader and Tenancy Tribunal to end the agreement on hardship grounds. No prior notice is required.

It is up to the party claiming hardship to satisfy the Tribunal that there are grounds for ending the agreement. If the Tribunal makes an order to end the tenancy, the party suffering hardship may be ordered to pay compensation to the other party.

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Fair wear and tear

At the end of a tenancy the tenant is responsible for leaving the premises as nearly as possible in the same condition, fair wear and tear excepted, as set out in the original condition report.

Fair wear and tear means the deterioration that occurs over time with the reasonable use of the premises by the tenant and the ordinary operation of natural elements, even though the premises receive reasonable care and maintenance.

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Final inspection and returning keys

At, or as soon as possible after, the end of the tenancy both the tenant and the landlord/agent must carry out a final inspection of the premises. The original condition reports should then be completed by both parties. However, if a reasonable opportunity is given to the other party to be there and they do not show up, the report may be filled out in their absence.

A tenant is responsible for returning all copies of keys given to them by the landlord or agent at the start of the tenancy.

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Bond refunds

During the tenancy, the rental bond is held by NSW Fair Trading. At the end of the tenancy, after the final inspection, a claim for Refund of Bond Money form should be filled out by the landlord or agent and given to the tenant to sign. Any disagreement over how the bond is to be paid out should first be discussed between the parties.

If agreement cannot be reached, either party may send a claim form to NSW Fair Trading, without the signature of the other party but the bond will not be paid out straight away. A letter will be sent to the other party advising them of the claim and giving them 14 days to apply to the Tribunal to dispute the claim. If no reply is received within 14 days the bond will then be paid out.

No matter who applies to the Tribunal it is always up to the landlord to prove any claim on the bond.

[View or download the Claim for refund of bond money in PDF format \(size: 63kb\)](#). Alternatively, call 13 32 20 or visiting any Fair Trading Centre for a copy.

Related information:

- [Fair Trading Centres](#)

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Page URL: http://www.fairtrading.nsw.gov.au/Tenants_and_home_owners/Renting_a_home/When_you_move_out.html

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legislation.

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