

Tenancy law changes to deal with family violence

From 11 August 2021 this year (unless the Government agrees to move the date forward), a tenant will be able to end a fixed term or periodic tenancy on 2 days' notice on the basis that they have been the victim of family violence.

Family violence is defined as physical, sexual or psychological abuse against a person. It includes a pattern of behavior that is coercive and controlling, that causes or may cause a person cumulative harm. It can include a single or multiple acts of abuse. Psychological abuse includes threats or physical or sexual abuse, intimidation or harassment, damage to property, ill-treatment of pets/ animals whose welfare is likely to significantly affect a person's wellbeing, financial or economic abuse, hindering or removing access to devices, medication or support that affects the quality of life of a person in the care of another.

Under the new provisions, the tenant will have to serve the notice confirming that they intend to withdraw from their tenancy along with 'qualifying evidence' that they have been a victim of family violence. Currently it is unclear what will qualify. The Act states that a declaration in an approved form by a 'prescribed' person will suffice or 'evidence, in the approved form, of a prescribed type.'

The details will be confirmed in regulations before 11 August 2021. However, the Government has indicated it is likely evidence will include existence of a Protection order, a Police Safety Order or a declaration signed by an independent and reliable person, such as a women's or men's refuge worker or a counsellor.

When notice is served either:

- the tenancy will end following the 2 day notice period, if there are no other tenants;
- the tenant will cease to be responsible under the tenancy agreement (except in respect of liability for acts/omissions prior to the withdrawal). The tenancy will continue for the remaining tenants. The withdrawal may result in a reduction in the rent payable for the premises for remaining tenants (in some circumstances) for a 2 week period from the date of the withdrawal. The remaining tenants may then be able to apply for an order that their tenancies terminate on the ground of hardship.

The tenant does not have to apply to the Tribunal to terminate the tenancy. The tenancy can be terminated by email or post (along with the accompanying evidence). Landlords will have the right to challenge a family violence withdrawal notice in the Tenancy Tribunal if they consider that it is not valid.

Landlords will face fines of up to \$3,000 for disclosure of a notice to withdrawal or accompany qualifying evidence of family violence.