



7.27 End of Tenancy

Aim

- To ensure that the legal requirements for ending a tenancy are understood and adhered to by SGCH employee and tenants.
- To ensure that the end of a tenancy is fair, efficient and effective for all concerned.
- To adhere to our legal obligations as landlord and tenant under the *Residential Tenancies Act 2010*
- To deal sensitively to individual circumstances in deciding to end a tenancy.
- To ensure natural justice for our tenants.
- To have efficient administration and record keeping at the end of tenancy.
- To ensure remaining tenants are cared for.
- To ensure tenancies are ended compassionately when a tenant dies.

Guiding principles

SGCH will:

- Advise our tenants of their rights and responsibilities when a Notice of Termination is issued and when legal action is taken at the Consumer, Trader and Tenancies Tribunal (CTTT) that may result in their tenancy being terminated.
- Ensure tenants have access to tenancy advice, interpreters and support if their tenancy is threatened or is ending.
- Issue Notices of Termination in accordance with the *Residential Tenancies Act 2010*.
- Advise our tenants exactly what is required of them to meet their legal responsibilities when their tenancy ends, regardless of the reason for the tenancy ending.
- Ensure abandoned goods at the end of a tenancy are handled in accordance with the requirements of the *Residential Tenancies Act 2010*.

There are many reasons for a tenancy ending.

Tenancy terminated by a tenant

If a tenant wants to end a residential tenancy agreement they are required to provide the landlord with a termination notice giving the following amount of notice in accordance with the *Residential Tenancies Act 2010*

- Fourteen days notice to end the agreement on or after the end of a fixed term. The termination notice must be given before the end of the agreement.
- Twenty-one days notice to end a continuing tenancy.
- Fourteen days notice if the landlord has breached the residential tenancy agreement.
- Fourteen days notice to end a fixed term agreement without compensation if:
 - the tenant has accepted an offer for social housing accommodation or
 - has accepted a place in an aged care facility or
 - has been notified by the landlord of their intention to sell the property and was not notified of this before entering into the residential tenancy agreement or

- a co-tenant, occupant, former co-tenant or occupant is prohibited by a final apprehended violence order from having access to the property.

When one tenant in a joint tenancy ends their tenancy, the tenancy is terminated and appropriate arrangements for a new tenancy or transfer will be made with the remaining tenant if he/she wishes to remain in SGCH housing.

When a tenant with a sole tenancy wishes to enter a joint tenancy with a member of their household and the second person is eligible for housing, the current tenancy will be terminated and a new residential tenancy agreement will be signed.

Tenancy terminated by SGCH

The circumstances leading to the tenancy being ended by SGCH include:

- Breaches of the Residential Tenancy Agreement (RTA)
- Management objectives
- Abandonment by the tenant
- The making of an apprehended violence order
- Death of a tenant

End of tenancy for a breach of the Residential Tenancy Agreement

- SGCH takes action to end a tenancy for a breach only after other appropriate housing management options have been fully explored.
- In all cases where SGCH appears in the Tribunal as landlord, the objective is to maintain the tenancy whenever an acceptable performance agreement can be reached with the tenant.
- An order terminating a tenancy when a tenant is willing to make an agreement, will only be sought in the case of repeated unresolved breaches by the tenant or where violence to other people or extreme damage to property is an expected outcome of continuing the tenancy.
- When a tenancy is terminated by the Tribunal and the tenant, or one of a joint tenancy, is allowed to stay, the tenancy ends and a new one commences.
- The tenant is asked to be present at the exit inspection of their property and to be given the opportunity to do any cleaning, minor repairs which may have been identified through the inspection process. The tenant is given one week or specified time frame agreed both by the tenant and SGCH to carry out these minor repairs, otherwise SGCH will engage contractor to do the work and these costs will be charged to the tenant.

End of tenancy for a management objective

- A tenant may be asked to move from their current property for management reasons. Management reasons may include:
 - Over or under occupation
 - Needing the particular property for another tenant, e.g. an applicant with special needs and the current occupants of the property do not require that particular feature.
 - Redevelopment of the site
 - Renovation of the property
 - The property needs to be returned to the landlord/owner

- If a tenancy is terminated by SGCH due to management reasons, the tenant will be offered two suitable offers of alternative housing and SGCH will cover the removalist costs.
- SGCH is committed to transferring tenants via mutual agreement and avoiding legal proceedings. However, if a tenant declines two suitable offers of alternative housing, SGCH will terminate the tenancy in accordance with social housing provisions (Section 148) of the *Residential Tenancies Act 2010*.

Ending the tenancy due to abandonment by the tenant

If SGCH believes that a tenant has abandoned the property, we will make an application to the Consumer, Trader and Tenancy Tribunal (CTTT) to have the tenancy terminated.

End of tenancy due to an apprehended violence order (AVO)

If an AVO prohibits a tenant or co-tenant from having access to the property, the tenancy of that tenant or co-tenant under the residential tenancy agreement is terminated. Such a termination does not affect the tenancy of any tenants/co-tenants that are not subject to the AVO.

End of tenancy when a tenant dies

When a sole tenant dies the tenancy does not immediately end.

Either the landlord or the person responsible for the deceased tenant's estate 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 CTTT 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.

The death of a tenant/household member should be reported to SGCH as soon as practical.

SGCH recognises that there may be cultural or religious reasons why the person responsible for the deceased tenant's estate needs to keep possession of the property for a period of time following the tenant's death. SGCH will consider such requests on a case by case basis. Adequate justification must be provided. Rent must be paid until the property is returned to SGCH.

Legal minimum notice periods

In situations of eviction, a landlord is required to give the following written notice of termination in accordance with the *Residential Tenancies Act 2010*:

- Thirty days notice to end the agreement on or after the end of a fixed term. The termination notice must be given before the end of the agreement.
- Fourteen days notice if the tenant has breached the agreement (if the breach involves rent arrears, the rent must be at least 14 days overdue at the time the notice is issued).

- Thirty days notice in a continuing tenancy if the premises are being sold with vacant possession.
- Ninety days notice in a continuing tenancy if there are no grounds for terminating the agreement.
- The CTTT may terminate a tenancy with a notice of termination being issued if the tenant, co-tenant or occupant threatens, abuses, intimidates or harasses the landlord, landlord's agent or employee/contractor of the landlord.
- 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.

Service of notices

SGCH will serve notices in accordance with the requirements of the *Residential Tenancies Act 2010*.

A notice to a person must be in writing and may be served by:

- Posting the notice to the persons residential or business address or if an address is not specified, the persons last known residential or business address.
- Hand delivering the notice to the person or a person believed to be 16 years of age or older at the persons residential or business address
- Delivering the notice in an envelope addressed to the person and leaving it in the person's mailbox at their residential or business address.
- Sending the notice by facsimile to the person's facsimile number.

If the tenant has not moved out by the date specified on the notice, the landlord has 30 days to apply to the CTTT for an order terminating the agreement and an Order of Possession.

Tenants can only be physically removed from premises by a Sheriff once a Warrant of Possession has been obtained from the CTTT.

SGCH responsibilities

- To conduct a property inspection and identify any repairs and maintenance which are the responsibility of the outgoing tenant.
- To give the tenant the opportunity to do any cleaning, minor repairs, garden maintenance etc. that they will otherwise be charged for.
- To carry out any repairs or maintenance on the property that are essential for letting the property or that are best carried out on a vacant property, and plan any other outstanding maintenance.
- To reconcile the tenant's rent account, and repay any overpayment of rent or take steps to collect any underpayment of rent.
- To draw up a final account for any other outstanding debts the tenant has with the organisation.
- To record a forwarding address on the ex-tenant file (if known) and details of any debts and arrangements for repayment.
- To dispose of any belongings left in the premises in accordance with the *Residential Tenancies Act 2010*.
- To relet the vacant property as soon as is practicable.

End of tenancy cleaning and repairs

The tenant is responsible for returning the property to the landlord in the condition that it was in at the start of the tenancy. After conducting the end of tenancy inspection, SGCH will discuss any tenant damage or cleaning issues with the tenant. The tenant will be given the opportunity to rectify any outstanding cleaning, gardening or repairs (excluding fair wear and tear). The tenant will be given up to 1 week to carry out the cleaning/repairs. A daily occupation fee will be charged for each day the tenant has possession of the premises. If the tenant declines the opportunity to rectify the cleaning, gardening or repairs, SGCH will engage a contractor to carry out the work and the costs will be claimed back from the tenant.

Debt, rent arrears and end of tenancy charges

If a tenant vacates a property and the outstanding rent arrears, debt or the cost of unrectified end of tenancy cleaning, gardening and repairs exceeds \$500, SGCH will apply to the Consumer, Trader and Tenancy Tribunal (CTTT) for a Certified Money Order. For affordable housing debt, rent and end of tenancy charges, refer the Affordable Housing policy.

Final rent payment

The date of termination of the tenancy is unlikely to fall on the final day of the rent period. An adjustment has to be made to pay up to the exact day of hand back.

Goods left in the residential premises

SGCH will dispose of any goods that are believed to be perishable and are left behind at the time of vacant possession or if the property is abandoned.

For non-perishable goods and personal documents, SGCH will give the former tenant notice that the goods will be disposed after 14 days (for non-perishable goods other than personal documents) and 90 (for personal documents). Notice will be given in accordance with the *Residential Tenancies Act 2010*.

If the goods are not collected within the timeframe specified in the notice, SGCH will dispose of them in accordance with the *Residential Tenancies Act 2010*.

Tenant Exit Survey

SGCH will seek feedback from tenants at the end of their tenancy. The information obtained will be used to assist with continuous improvement.