

FAMILY VIOLENCE

CHANGING OR ENDING YOUR TENANCY AGREEMENT

This fact sheet has information on getting off the tenancy agreement if you or your kids have experienced family violence or getting the user of family violence against you or your kids off your tenancy agreement.

For more information on family violence and tenancy, see also the fact sheet Reporting family violence and the fact sheet Tenants and family violence – using the law to be safer and avoid debt from your tenancy.

Reporting family violence

If you report family violence and property damage caused by the family violence to the police and Housing, it will make it quicker and easier to make it safe for you and your family in the future. You must report family violence and property damage to Housing if you want them to help. If it is safe for you to do so, Housing also wants you to do as much as possible to help the police charge someone that damages your rental house.

Reporting family violence is one of the steps that may also help you avoid going into debt from things like ending the tenancy agreement early to get away from family violence or paying for property damage linked to the family violence that you did not do.



I am worried about my safety, how do I get taken off the tenancy agreement?



If you or your kids or other dependants are likely to experience family violence, you may be able to get off the tenancy agreement. This means ending your interest in the tenancy agreement. Maybe you want to move somewhere else that you feel will be safer.

You must give Housing at least 7 days' notice that you want to end your interest in the tenancy agreement and leave the house. Maybe you will leave the house earlier if that is best for you. Give longer notice if that works better to give you more time to find another place to live.

If you want to apply to get off the tenancy agreement you must:

- ◆ fill in a form called Notice of Termination of tenant's interest in residential tenancy agreement on the grounds of family violence, **and**
- ◆ have **one** of the following types of paperwork to **support or back up your application**:
 - ◇ a family violence restraining order (FVRO), a police order, an interim FVRO or a similar order from another State or territory

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- ◇ a Family Court injunction or an application for a Family Court injunction
- ◇ a copy of a prosecution notice or indictment containing a charge about family violence having been committed against you or your dependant like your kid, or
- ◇ a Consumer Protection Family violence report – evidence form. One of the following professionals or support workers who has worked with you and knows you have experienced family violence is allowed to sign this form:



- a doctor
- a psychologist
- a social worker
- the person in charge of a women's refuge
- a police officer
- a child protection worker
- a family support worker, or
- a person in charge of an Aboriginal health, welfare or legal organisation like the Aboriginal Legal Service or Aboriginal Family Legal Services.



Housing must show the co-tenant a copy of the *Notice of Termination of tenant's interest in residential tenancy agreement* you gave to them, but they are not allowed to show the co-tenant copies of any other paperwork you give them.

Which type of supporting paperwork will you get?

If you end your tenancy agreement in the right way where there is family violence, you won't have to pay any compensation for the early ending of the tenancy agreement like a 'break tenancy agreement' fee, loss of rent and a re-letting fee.

Check you have used the right form, given at least 7 days' notice and have the right supporting paperwork



If you fill in the paperwork to end your tenancy agreement but the paperwork is not right or you didn't give at least 7 days' notice, Housing may go to the Magistrates Court and appeal the termination notice. The magistrate may let you end the tenancy agreement, but you must pay the costs of ending the tenancy agreement early. The magistrate may let you end the tenancy agreement and say you don't have to pay the costs of ending the tenancy agreement early.

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What if I want to stay and get the co-tenant who used family violence taken off the tenancy agreement?

If you are a tenant and want to stay in the house, you must ask the Magistrates Court to have the person who **used family violence against you taken off the tenancy agreement**.

The court may end the co-tenant's interest in the tenancy agreement if it is satisfied that:

- ◆ a family violence order, like an FVRO, is in force against the co-tenant, or
- ◆ during the period of the tenancy agreement, the co-tenant has committed family violence against you or a dependant. You will have to tell your story of what has happened to prove the family violence happened. Supporting paperwork will help you show the family violence like medical records, copies of text messages with threats or abuse, a signed letter or statement from a support worker who knows about your case, police incident report numbers or convictions or charges or police orders.



The law says the court has to think about things like the best interests of the kids living at the house, your best interests, and the effect on pets in making the decision. Maybe the court will take the co-tenant off the tenancy agreement. Maybe the court won't take the co-tenant off the tenancy agreement.

Safety planning before getting off the tenancy agreement or trying to get the co-tenant taken off

To get off the tenancy agreement, Housing gets the notice and your supporting paperwork from you about ending the tenancy agreement because of family violence. If you have a co-tenant, they only get a copy of the notice from Housing. The co-tenant has 7 days to decide if they want to stay on the tenancy agreement. If the co-tenant wants to get off the tenancy agreement, they have to give Housing 21 days' notice.

Safe House
or Refuge



Given the co-tenant will get a copy of your notice, if your co-tenant is the person using family violence, you may be safer if you do some safety planning around giving this notice and moving before you put in the notice to Housing.

The co-tenant will also get your paperwork if you ask the court to take them off the tenancy agreement because they used family violence during the tenancy agreement. Safety planning around this before you put in the application to the court may help you be safer.