

## PURPOSE

This policy defines Evolve Housing Vic Limited's (EHVL) approach to managing the tenancy of a social housing property where the Tenant is deceased.

<b>POLICY REFERENCE</b>	VHS005.1
<b>POLICY OWNER</b>	General Manager, Resident Services
<b>APPROVED BY</b>	Evolve Housing Ltd CEO
<b>APPROVAL DATE</b>	1 Mar 2022
<b>REVIEW DATE</b>	1 Mar 2025

## DECEASED TENANT POLICY

### 1. SCOPE

This policy applies to EHVL Tenants.

### 2. POLICY STATEMENT

EHVL is committed to providing fair and effective management of tenancies in the regrettable scenario where a Tenant has passed away.

This policy outlines the approach EHVL takes to compassionately and discreetly manage such cases.

EHVL is generally advised of the death of a Tenant by next-of-kin, a friend, neighbour, the police or the executor of the Tenant's estate.

#### 2.1 Initial Actions

When EHVL is advised of a Tenant's death, action will firstly be taken to ensure the Property is secure and ascertain if there are additional Approved Occupants of the household or if the Tenant was the sole occupant.

If there are other Approved Occupants, EHVL may consider offering a succession of tenancy.

If the Tenant was the sole occupant, EHVL's actions will depend on whether the Tenant was testate – that is, whether they had a valid will.

#### 2.2 Sole occupant - testate

Where EHVL determines that the deceased Tenant does have a valid will and/or is informed of this by next-of-kin or executor the estate, the following action will be taken:

- If there is a credit balance, the balance will be forwarded to the executor of the estate;
- If there is a debit balance, EHVL may inform the deceased's estate or legal representative of the amount owing and request payment in full. If there are insufficient funds available in the deceased's estate, the debt will be written off;
- EHVL and the executor may agree when the Property will be returned to EHVL and the agreed return date will be set out in a Notice to Vacate;
- A daily fee not greater than the daily occupation rate may be charged until the Property is returned vacant to EHVL;
- If the Property is not returned to EHVL by the executor within fourteen (14) days of the agreed return date, EHVL may take action through the Victorian Civil & Administrative Tribunal (VCAT) to seek possession of the Property in accordance with the *Residential Tenancies Act 1997* (Vic);

- If EHVL and the executor do not agree on a return date, then termination of the tenancy of the Property will occur on the earlier of the following:
  - (a) 28 days after written notice of death is given to EHVL by the legal personal representative or next of kin of the Tenant;
  - (b) 28 days after a notice to vacate is given by EHVL to the legal personal representative or next of kin of the Tenant;
  - (c) On a date determined by VCAT on an application by EHVL to terminate the tenancy as a result of death of the Tenant;
- A daily fee not greater than the daily occupation rate may be charged until the Property is returned vacant to EHVL.

### **2.3 Sole occupant - intestate**

Where EHVL determines the deceased Tenant did not have a valid will and there is no executor, one or more of the following actions will be taken:

- EHVL will liaise with the Victorian Police to ascertain if the Tenant has any next-of-kin;
- EHVL will advise the Public Trustee, who will manage the Tenant's affairs in relation to wills, probate and administration of the deceased estate;
- Where there are no next-of-kin and goods have been left in the Property, EHVL will dispose of the goods in accordance with Part 9 of the *Residential Tenancies Act 1997* (Vic).

### **2.4 Other approved household members**

Where there are additional Approved Occupants of the Property (ie occupants who EHVL has approved in writing), EHVL will advise these occupant(s) of EHVL's policy on succession of tenancy and offer them the opportunity to apply.

Each of the other occupant(s) must have been an Approved Occupant for the past two years and be eligible for social housing. Should the Approved Occupant be successful in their application for succession of tenancy, they may be required to relocate to another property if the current Property is found to exceed their needs or otherwise not suit their circumstances.

### **2.5 Authority**

The decision regarding approval for succession of tenancy where the Tenant has passed away, will be made by EHVL Executive Manager – Social Housing.

## **3. DEFINITIONS**

- Approved Occupant – a person, in addition to the Tenant, who is approved in writing by the Landlord to reside in the Property
- Days – means calendar days
- Property – the property or residential premises as described in the Residential Tenancy Agreement between EHVL and the Tenant
- Residential Tenancy Agreement (or Tenancy Agreement) – a written agreement between EHVL (as Landlord) and a Tenant, which governs the terms on which that Tenant occupies the property described in the Agreement.
- Tenant – a person who signs the Residential Tenancy Agreement with EHVL and who has certain rights and obligations under that Agreement. (A Tenant is also a Resident.)
- Termination Notice – a Notice to Terminate Tenancy Agreement under the *Residential Tenancies Act 1997*
- VCAT – The Victorian Civil & Administrative Tribunal is an independent Victorian statutory body which resolves a wide range of disputes including tenancy and other residential property issues. VCAT decisions must be followed and are enforceable.

#### 4. RELATED RESOURCES

- EHVL Succession of Tenancy Policy
- *Administration and Probate Act 1958* (Vic)
- *Housing Act 1983* (Vic)
- *Residential Tenancies Act 1997* (Vic)

*This policy is subject to change from time to time at the discretion of EHVL.*

*If you have any specific questions regarding this policy, please contact EHVL on 1800 693 865 or email your enquiry to [myevolve@evolvehousing.com.au](mailto:myevolve@evolvehousing.com.au).*

#### 5. VERSION CONTROL

VERSION	Date Approved	Author	Key Changes
1.0	1/03/2022	GAL	Policy adopted