

PURPOSE

The purpose of this policy is to outline what action Evolve Housing Vic Limited (EHVL) will take in regard to abandoned Properties including abandoned goods left in a Property.

POLICY REFERENCE	VHS012.1
POLICY OWNER	General Manager, Resident Services
APPROVED BY	Evolve Housing Ltd CEO
APPROVAL DATE	1 Mar 2022
REVIEW DATE	1 Mar 2025

ABANDONMENT OF A TENANCY POLICY

1. SCOPE

This policy applies to all Tenants of EHVL.

2. POLICY STATEMENT

Social housing is a scarce resource and a valuable asset for those in need. EHVL maximises the benefit gained from this resource by making sure that Properties are not left vacant. Consequently, when EHVL provides a Property for a client, we expect them to live in the Property. This policy outlines EHVL's approach to managing abandoned goods and Properties.

2.1 Abandoned Properties

EHVL will consider that a Property has been abandoned by a Tenant only when it is clear that the Tenant is not living there. To assess whether a Property has been abandoned, EHVL will conduct enquiries and carry out an inspection of the Property. A decision to treat a Property as abandoned will be based on a number of factors, including:

- Advice from neighbours that no one is living in the Property and/or they have witnessed the Tenant moving out;
- Evidence that the Tenant is not maintaining the Property, such as the Property appearing overgrown and unkempt;
- The Tenant not paying rent;
- No response received to letters posted by EHVL to the Tenant at that address, or to call notes left at the Property;
- Evidence (such as photographs and the outgoing Property condition report), which has come from the Property inspection conducted by EHVL, and which indicates that the Property has been vacated.

2.2 Application to seek possession of the abandoned Property

If it is clear that the Property has been abandoned, and evidence demonstrates the Tenant no longer intends to return to the Property, EHVL may make an application to VCAT seeking an order that the Property is abandoned, as allowed under section 91ZG of the *Residential Tenancies Act 1997* (Vic) (the Act). If VCAT makes the order, the Residential Tenancy Agreement will be considered terminated from the date specified by VCAT.

EHVL also has the right to seek an order through VCAT for compensation for loss of rental income, property damage and cleaning costs (including removal of goods), as applicable.

2.3 Dealing with goods left on the Property

If goods remain at the Property after the Property has been found abandoned or is subject to a relevant VCAT order, an EHVL Employee (and a witness where possible) will make a detailed inventory of the goods left behind, and will also take photographs of the goods to show their condition, particularly if they are of an estimated value greater than \$200. The goods will then be categorised to identify the most appropriate treatment.

The following types of goods left behind may be disposed of by EHVL:

- Goods of no monetary value;
- Goods that are perishable foodstuffs;
- Dangerous goods.

For other goods left behind, EHVL will store these goods and give the Tenant 14 days written notice to collect them. EHVL will provide this notice, which must comply with relevant legislation, within 7 days of becoming aware of the goods. If the Tenant has not provided a forwarding address EHVL may provide notice in a newspaper which circulates generally throughout Victoria.

2.3.1 General Goods

If the goods are not collected within twenty-eight (28) days of being stored, EHVL must arrange for the goods to be sold at public auction. EHVL will advertise the sale of the stored goods in a newspaper which circulates throughout Victoria at least 14 days prior to the auction.

If the goods are sold EHVL is entitled to retain the following from the proceeds of the sale:

- reasonable costs in removing and storing the goods;
- the costs incurred trying to notify the Tenant and selling the goods; and
- any money owed to EHVL under a VCAT determination.

Where there is remaining money after the sale of goods and deduction of money by EHVL, the money will be provided to the State Revenue Office,

If the goods are offered for sale at auction and are not sold, the stored goods may be disposed of.

If an item has been leased or hired, EHVL will notify the company who owns it (if known) and arrange for the company to collect the goods.

The former Tenant can claim and collect some or all of the goods while they are in storage, however prior to doing so they must pay a storage fee for each day the goods were left on the Property or in storage, to a maximum of fourteen (14) days.

Under no circumstances will EHVL give or sell any goods to an Employee of EHVL or their relatives, friends or agents.

2.3.2 Personal Documents

Where personal documents remain in the Property after it has been abandoned, EHVL is required by Section 380 of the Act to give the Tenant notice that the documents will be disposed of after ninety (90) days of the notice being given. Personal documents include:

- Official documents
- Photographs
- Correspondence
- Any other document which it would be reasonable to expect that a person would want to keep

If any personal documents are not claimed within ninety (90) days, EHVL will where possible, return the

documents to the authority that issued them – particularly if they are original documents, or if this is not practical, they may be placed on the Tenant’s file or disposed of in a lawful manner which will not result in the Tenant’s personal information becoming publicly available.

2.3.3 Perishable Goods

Perishable goods including foodstuffs and rubbish can be removed immediately without notice to the former Tenant. If necessary, EHVL will arrange for contractors to remove and dispose of any perishable goods.

2.4 **End of tenancy accounts for abandoned Properties**

If a Tenant moves out without giving notice and the Property is found abandoned:

- Rent will be charged to the Tenant as per the notice period set out in Section 452 of the Act; and
- Any damage to the Property will be assessed and charged to the former

Tenant. EHVL may seek action through VCAT to recover costs.

2.5 **Appeals and reviews of decisions**

Former Tenants who may have concerns about the fairness or transparency of a decision or action taken by EHVL are encouraged to discuss the matter with their Housing Manager in the first instance. The next step, if the former Tenant still believes EHVL has made an incorrect decision, is to lodge a formal appeal of the decision.

3. **DEFINITIONS**

- Abandonment of a Property - when a Tenant leaves their Property without giving notice to EHVL and the Property is found to be vacant.
- Appeal – a disagreement by a Resident or Applicant for social housing, with a decision made by EHVL that affects their tenancy or their application for housing, and which the Resident or Applicant has requested be reviewed.
- Employee - an employee, contractor or agent of EHVL.
- Property – the property or residential premises as described in the Residential Tenancy Agreement between EHVL and the Tenant.
- Resident – a person who resides on a permanent basis in a property which is owned or managed by EHVL under a Residential Tenancy Agreement (includes a Tenant).
- Residential Tenancy Agreement (or Tenancy Agreement) – a written agreement between EHVL 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.
- VCAT - Victorian Civil & Administrative Tribunal is an independent statutory body which resolves disputes including tenancy and other residential property issues. VCAT decisions must be followed and are enforceable.

4. **RELATED RESOURCES**

- EHVL Appeals Policy
- EHVL Rent (Social Housing) Policy
- *Residential Tenancies Act 1997* (Vic)
- Residential Tenancy Agreement

This policy is subject to change from time to time at the discretion of EHVL. Any approvals required under this policy will be granted in accordance with the Evolve Housing group Delegations of Authority Policy. 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.

5. VERSION CONTROL

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