

**PURPOSE**

The purpose of this policy is to explain the circumstances and action to be taken when a Tenant ends a tenancy or Evolve Housing Vic Limited (EHVL) terminates a tenancy.

<b>POLICY REFERENCE</b>	VHS027.1
<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

**TERMINATING A TENANCY POLICY****1. SCOPE**

This policy applies to all EHVL Tenants.

**2. POLICY STATEMENT**

EHVL will comply with the rights and obligations of a Landlord under the *Residential Tenancies Act 1997*.

Tenants are expected to comply with the terms and conditions of their Residential Tenancy Agreement. This policy explains how EHVL or a Tenant may end a tenancy.

**EHVL will only end a tenancy in accordance with:**

- The *Residential Tenancies Act 1997* (the Act) and associated regulations;
- The terms and conditions of the Residential Tenancy Agreement and
- EHVL Policies.

Both the Tenant and EHVL have rights and obligations under the above Act, the Residential Tenancy Agreement and EHVL policies.

**2.1 When a Tenant may end a tenancy**

A Tenant may end their Tenancy Agreement with EHVL by giving the following amount of notice in accordance with the Act:

- Fourteen (14) days' notice to end a fixed term agreement, on or after the end of a fixed term. The notice must be given before the end of the Tenancy Agreement. There are some instances where a Tenant may provide fourteen (14) days notice during the fixed term;
- Twenty-eight (28) days' notice to end a periodic Tenancy Agreement. There are some instances where a Tenant may provide fourteen (14) days notice;
- Fourteen (14) days' notice if the landlord has breached the Residential Tenancy Agreement;
- Fourteen (14) days' notice to end a fixed term Tenancy Agreement without compensation if the Tenant has accepted alternative social housing accommodation or is to enter an aged care facility;
- If co-Tenants have signed the Tenancy Agreement and one Tenant wishes to end the agreement, arrangements will be made for a new Tenancy Agreement with the remaining Tenant.

If the Tenant has a periodic agreement, and any of the matters in the below list apply to the Tenant, the minimum required notice period the Tenant is required give is fourteen (14) days.

If the Tenant has a fixed term agreement and any of the matters in the below list apply to the Tenant, the Tenant is able to end their agreement with fourteen (14) days' notice even if the vacate date the

Tenant provides is before the end of the Tenant's fixed term.

The Tenant can give a reduced notice period of fourteen (14) days if:

- The Tenant requires special or personal care and must leave to get care;
- The Tenant has a disability and has asked to make reasonable modifications to the Property, but EHVL has refused;
- The Tenant been given a 'notice of intention to sell' by EHVL and were not told of EHVL's intention to sell the Property before the Tenant entered into the rental agreement;
- The Tenant lives in specialist disability accommodation under the National Disability Insurance Scheme Act 2013 and the rental provider's registration to provide this accommodation has been revoked;
- If EHVL has given a notice to vacate for any of these reasons:
  - Repairs, renovations or reconstruction;
  - Demolition;
  - The Property has been, or is being, sold;
  - The Tenant's fixed term agreement is ending;
  - The Tenant is no longer eligible for public housing.

#### **2.1.1 A Tenant's obligation when they end their tenancy**

Tenants may end a fixed term lease before it is due to end if they obtain the agreement of the landlord. EHVL may agree to termination of a lease early if a Tenant wishes to move out before the end of a fixed term, provided the following has occurred:

- The Tenant notifies EHVL of their intention to vacate and gives the correct number of days' written notice, according to their type of Tenancy Agreement;
- The notice specifies the date the Tenant wants the tenancy to end and the end date allows for the correct number of days for giving notice;
- Rent is due up to and including the end day of the notice, or up to the date the keys are returned, if after the end date.

The Tenant must remove all their belongings, including any rubbish from the Property and leave the Property in a clean and tidy condition that is as near as possible to the condition it was at the beginning of the tenancy, apart from fair wear and tear.

The term 'fair wear and tear' is not specifically defined in the Act or in the Residential Tenancy Agreement but is described by the DFFH Tenant Property Damage Operational Guidelines as the gradual and expected deterioration of a property or its fixtures and fittings as a result of the reasonable residential use of the property over time (for example carpet gets worn by foot traffic) and the operation of natural forces (for example sunlight and rain).

Tenants are responsible for locking the Property and returning all keys and remote access tags to EHVL within the agreed timeframe.

## **2.2 EHVL ends the tenancy – Notice to vacate**

There are various reasons why EHVL may end the tenancy including when a fixed term lease has ended or the Tenant is no longer eligible for social housing. In accordance with the Act, EHVL will advise the Tenant in writing and within the required timeframe, as to the reason for seeking to end the tenancy.

The action taken to end a tenancy will only occur after all other appropriate housing management options have been fully explored. The matter will be dealt with confidentially and sensitively and EHVL will ensure the Tenant receives natural justice.

EHVL will provide information to the Tenant as to where and how to obtain support, which may include Tenancy Advisory Services and Government Interpreters.

If the issue has not been resolved at the expiry of the Notice to Vacate, EHVL may then apply to the Victorian Civil & Administrative Tribunal (VCAT) for a resolution of the matter, which may result in vacant possession being granted to EHVL.

#### **2.2.1 Ending a fixed term agreement**

Once a fixed term of the Tenancy Agreement ends, the agreement continues in force on the same terms as a periodic agreement unless the agreement is terminated by EHVL in accordance with the *Residential Tenancies Act 1997*.

- EHVL, at any time before the end of a fixed term Tenancy Agreement, may give notice to vacate to take effect after the end of the fixed term.
- The notice to vacate must specify a date to vacate that is on or after the end of the fixed term and not earlier than 60 days after the day on which the notice is given (where the fixed term is less than 6 months) and 90 days (where the fixed term is more than 6 months)

#### **2.2.2 Sale of premises**

- Periodic Agreements - where a contract for the sale of land or property requiring vacant possession has been exchanged (for EHVL owned Properties), EHVL may give a notice to vacate not less than sixty (60) days after the day on which the notice is given, for periodic agreements.
- Fixed term agreements - EHVL may only give a notice to vacate for a date of vacation that is after the end of the fixed term agreement.

#### **2.2.3 Breach of agreement or non-payment of rent**

- If the Tenant has breached their Tenancy Agreement or the rent has remained unpaid for fourteen (14) days or more, EHVL may issue a fourteen (14) day notice to vacate.
- If the Tenant does not move out at the expiry of the notice, EHVL may seek an Order for Possession from VCAT.
- This order may compel the Tenant to vacate the Property and sets a date for EHVL to take possession of the Property

#### **2.2.4 90 day notice to vacate**

- EHVL may issue a ninety (90) day notice to vacate in exceptional circumstances, or in the event of a EHVL Management Transfer. For the purposes of this policy, a EHVL Management Transfer is where a Tenant of a Leasehold Property can no longer continue the tenancy because the Property owner has issued EHVL with a ninety (90) day notice under the Residential Tenancy Agreement to return the Property.
- In cases of EHVL Management Transfer, EHVL will make every effort to solve the Tenant's housing needs subject to the Tenant's eligibility, in accordance with EHVL's Transfer Policy.

#### **2.2.5 Ending a tenancy due to an Apprehend Violence Order**

If a Tenant is issued with an Apprehended Violence Order (AVO) that prohibits a Tenant or co-Tenant from having access to the Property, EHVL may issue a Notice to Vacate against the Tenant that is prevented from accessing the property as a result of the AVO.

The notice to vacate does not affect the tenancy of any other Tenant or co-Tenant that is not subject to the AVO.

#### **2.2.6 A Tenant becomes deceased**

Upon notification of the death of a Tenant, EHVL will follow the EHVL Deceased Tenant Policy. EHVL will initially 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 in accordance with the EHVL Succession of Tenancy Policy.

### **2.3 A Tenant vacates their Property without giving notice**

EHVL will inspect a Property suspected of being abandoned and make enquiries to find out if the Tenant has vacated.

If EHVL is satisfied the Tenant has abandoned the Property, the EHVL Abandonment of a Tenancy Policy will be followed.

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

### **2.4 Tenant accounts at the end of a tenancy**

If a Tenant moves out on or after the notice period (14 days for a fixed term Tenancy Agreement or 28 days for a periodic Tenancy Agreement):

2.4.1 EHVL will charge rent up to the end of the 14 or 28 day period.

2.4.2 If the Tenant fails to return the keys on a pre-arranged date, EHVL will charge rent up to the actual date keys are given to EHVL.

### **2.5 Appeals**

If a former Tenant believes EHVL has made a wrong decision they should first discuss their concerns with a Housing Manager. If the former Tenant continues to be dissatisfied after speaking with a Housing Manager, they have the right to lodge an Appeal which will be assessed in accordance with the EHVL Appeals Policy. Further information including Fact sheets, can be obtained from EHVL by contacting our office.

## **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.
- Approved Occupant – a person, in addition to the Tenant, who is approved in writing by the Landlord to reside in the Property
- Resident – a person who resides on a permanent basis in a Property which is owned or managed by Evolve Housing under a Residential Tenancy Agreement (includes a Tenant).
- Tenant – a person who signs the Residential Tenancy Agreement with Evolve Housing and who has certain rights and obligations under that Agreement.
- Termination Notice – a Notice to Terminate Tenancy Agreement under the *Residential Tenancies Act 1997*
- Victorian Civil & Administrative Tribunal (VCAT) - 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 Abandonment of a Tenancy Policy
- EHVL Appeals Policy
- EHVL Deceased Tenant Policy
- EHVL Privacy Policy
- EHVL Rental Bonds Policy
- EHVL Succession of Tenancy Policy
- EHVL Visitors and Additional Occupants Policy
- *Residential Tenancies Act 1997* (Vic)

*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](mailto:myevolve@evolvehousing.com.au).*

## **5. VERSION CONTROL**

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