

## Escaping Family Violence: Ending a Tenancy

### Violence within a tenancy in the ACT

From 10 December 2024, tenants experiencing family violence in the ACT no longer need to have a violence order, nor do they need to apply to ACAT to end their tenancy. They will be able to end their tenancy quickly and without having to pay a break lease fee.

Sometimes, a protected person may be living in the same property as the alleged perpetrator (respondent to a Family Violence Order (FVO) and both parties may be named as tenants in a residential tenancy agreement. This may lead to some issues if the FVO specifically excludes one tenant from being on the property.

**You do not need to have an FVO to be experiencing domestic or family violence.**

If you or someone you know have safety concerns, you can contact Legal Aid ACT's **Family Violence and Personal Protection Order Unit** at 1300 654 314.

For further advice about family violence and personal protection, you can visit our **Domestic Violence and Personal Protection Unit at the ACT Magistrates Court from 9:00am to 4:00pm every Monday to Friday.**

### How to terminate a tenancy for family violence reasons

A tenant who is party to a residential tenancy agreement where they have experienced family violence (or where a dependent child of a tenant has experienced family violence) can terminate a tenancy agreement.

To validly end the tenancy agreement, the landlord must be provided with a written notice that the tenant is vacating because of family violence (a family violence termination notice), and the tenant must vacate the property in accordance with that notice.

A family violence termination notice must clearly state the day the tenant intends to vacate (this can be the same day that the notice is issued) **and** include at least one supporting document.

### What are the supporting documents needed?

A tenant is only required to provide **one** of the following documents along with a family violence termination notice:

- A declaration by a competent person
- A family violence order protecting you or your dependent child under the Family Violence Act 2016
- An injunction under section 68B or 114 of the Family Law Act 1975 (Cth).

### What is a declaration by a competent person?

A competent person declaration is a declaration stating that a tenant or a dependent child of the tenant has experienced family violence.

A competent person is a person who has previously consulted with the tenant or child as part of the competent person's professional practice and includes (this is not an exhaustive list):

- Health practitioner (this includes: doctors, midwives, nurses, psychologists)
- Registered social worker
- ACT government employee working in child welfare
- Domestic and family violence workers
- Emergency and refuge accommodation employees
- Certain members of the Human Rights

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Commission

- Mandatory reporters

### What does issuing the notice do?

Issuing a Notice to Vacate for reasons of family violence and providing the required supporting document has the effect of ending the tenancy, effective immediately on the date set out in the notice.

This means that if a tenant serves a notice with today's date as the stipulated date for ending the tenancy on the landlord or their agent with the required supporting document, the tenant's rights and obligations in relation to the property end immediately. The tenant is **not** responsible for any rent from then on, nor for any break-lease fee or other fees.

### What a landlord or agent cannot do:

A landlord or agent cannot:

- Ask a tenant for any further information other than one of the required supporting documents above
- Share any supporting evidence the tenant has provided with anyone else, including co-tenants (like the order, declaration from a competent person etc). **This is an offence that is punishable by a maximum fine of \$3200 for an individual and \$16,200 for a company.**
- Tell the co-tenant/s that the tenant is leaving the property before the vacate date
- Keep the tenant's supporting evidence unless they need it for a legal reason

### What if your landlord or agent disputes the notice?

ACAT will not consider whether you have experienced family violence but may look at the relevant documentation you have provided. Please come to Legal Aid ACT for advice and assistance on this matter.

### If you are a co-tenant

The landlord must within 7 days after the vacating day give each of the remaining co-tenants a notice of continuing tenancy.

Any of the remaining co-tenants may terminate the continuing agreement for all remaining co-tenants by giving the landlord a notice to vacate—

- (a) at least 3 weeks before the day they intend to vacate the premises; and
- (b) if the agreement is a fixed term agreement—not later than 4 weeks after the day the notice of continuing tenancy is given to the co-tenants.

The break lease fee clause does not apply if a fixed term agreement is terminated by the co-tenants in this fashion.

Seek advice from Legal Aid ACT if you wish not to continue your tenancy after a co-tenant has terminated.

### Useful Contacts

#### Legal Aid ACT

Monday to Thursday: 8:30am to 7:00pm

Friday: 8:30am to 5:00pm

[www.legalaidact.org.au](http://www.legalaidact.org.au)

Phone: **1300 654 314**

#### Tenancy Advice Service

[TAS@legalaidact.org.au](mailto:TAS@legalaidact.org.au)

Phone: **1300 402 512**