

# Renting a home in Western Australia

## A tenant's guide

A guide that explains your rights  
and responsibilities as a tenant.





## Disclaimer

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## What we do

Consumer Protection gives free advice to all parties in a residential tenancy agreement, looks into complaints, and, wherever possible, helps settle disputes. If we can't negotiate a fair outcome, it may be necessary for the matter to be settled in court (see '[Going to court](#)').

The department's powers are limited to conciliation and prosecution of breaches of consumer law. Only the courts have the power to make orders or determinations to force a tenant or lessor to do something.

The department is however legislated to provide a bond management service for lessors/agents and hold the tenant's money. All new bonds must be lodged with the Bond Administrator. This is a free service.

You can contact us by telephone or visit one of our offices (listed on the back page).

Our website [www.consumerprotection.wa.gov.au](http://www.consumerprotection.wa.gov.au) has a wealth of information on tenancy laws and other matters.

The information provided in this guide explains and simplifies the law and should not be taken as a statement of law, for which you should refer to the [Residential Tenancies Act 1987](#) and the [Residential Tenancies Regulations 1989](#).

This guide is free. The department has no objection to lessors/agents, tenants or others copying parts or all of the text.

This guide is available on request in other formats to assist those with special needs.



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# Introduction

If you are currently renting a home in Western Australia, or thinking about doing so, this guide will help you avoid many common renting pitfalls and enjoy a harmonious and lawful relationship with the lessor/agent.

Renting a home in Western Australia is governed by a set of laws called the *Residential Tenancies Act 1987* (the Act) and the Residential Tenancies Regulations 1989 (the Regulations). You can download copies of the Act and Regulations online at [www.legislation.wa.gov.au](http://www.legislation.wa.gov.au). We advise you to periodically check for updates.

This guide does not take the place of the Act, or cover everything you might need to know but it will give you a good working knowledge of your rights and responsibilities as a tenant.

The term 'lessor' is used in this guide to describe the person who is renting out the property though you probably know them as your 'landlord'.

## The Act covers:

- the role of the department and the Magistrates Court;
- prescribed tenancy agreements and other prescribed/required documents/forms;
- payment of rent and rent increases;
- security bonds;
- use of the premises;
- urgent repairs;
- right of entry by the lessor/agent;
- fixtures, renovations, alterations and additions;
- who pays rates and taxes;
- assignment and subletting;
- discrimination against children;
- ending a tenancy;
- giving of notices; and
- options for tenants affected by family and domestic violence (FDV).

Lessors, real estate agents and the Department of Communities (Housing) (formerly Homeswest) and its tenants are bound by the Act.

This guide covers agreements entered into from 1 July 2013.

For agreements entered into prior to 1 July 2013 see the Changes to Residential Tenancy Law FAQ at [www.commerce.wa.gov.au/publications/changes-residential-tenancy-law-faq](http://www.commerce.wa.gov.au/publications/changes-residential-tenancy-law-faq) or contact the Consumer Protection Contact Centre on 1300 30 40 54.

## Please note

The laws referred to throughout this guide do not relate to the following:

- boarders/lodgers (see below);
- holiday accommodation;
- most long-stay residential park tenants;
- hotels/motels;
- colleges;
- educational institutions (unless a for-profit organisation provides the accommodation);
- hospitals/nursing homes/clubs; or
- certain homes for aged or disabled persons.

If you have any doubts about whether your rental situation is covered by the Act, please contact the Consumer Protection Contact Centre on 1300 30 40 54.

## Boarders and lodgers

It is not always easy to distinguish between tenants, boarders and lodgers. Although boarders and lodgers pay for the right to occupy residential premises they are not covered by the Act, but it is important to know they still have certain rights.



## How can you tell if you are a boarder, lodger or tenant?

If you have been given permission to stay at another person's house, have your meals or other domestic services provided and pay rent, you are most likely a boarder or lodger.

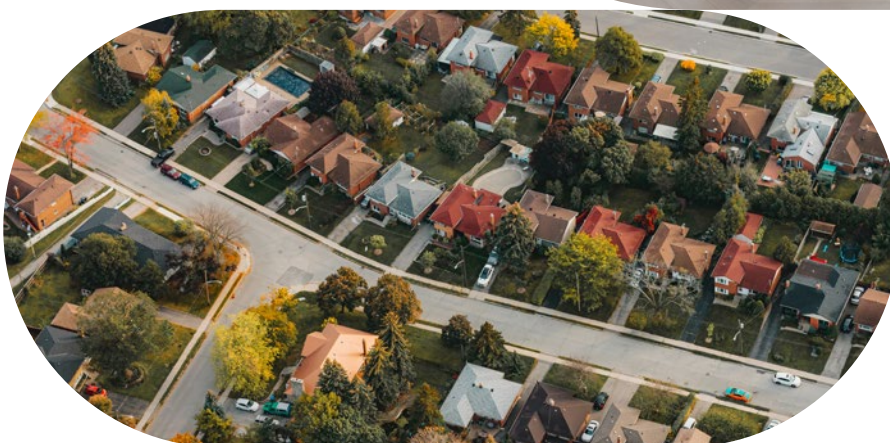
If you pay rent and in return are granted a right to occupy all or part of a residential premises, and have an independent existence from your lessor with no services provided, then you are most likely a tenant rather than a boarder or lodger. You can be a tenant whether you have a written agreement or a verbal agreement. The major difference is that tenants have a higher level of security of tenure and protection under the Act than either boarders or lodgers because they are covered by the law.

For more information, phone the Consumer Protection Contact Centre on 1300 30 40 54, visit the boarders and lodgers page online at [www.commerce.wa.gov.au/consumer-protection/boarders-and-lodgers](http://www.commerce.wa.gov.au/consumer-protection/boarders-and-lodgers) or refer to the brochure [\*Boarders and lodgers: a guide to your rights and responsibilities\*](#).

## Residential parks, long stay tenants

The Act also covers residential park tenants who have entered into or renewed a fixed-term long-stay tenancy agreement prior to 3 August 2007. The [\*Residential Parks \(Long-stay Tenants\) Act 2006\*](#) covers agreements signed after 3 August 2007.

More information regarding residential parks long-stay tenancies including several publications are available at [www.commerce.wa.gov.au/ResParks](http://www.commerce.wa.gov.au/ResParks).



# Getting started

## Finding the right place

It is important to think about what you really need and to avoid making rash decisions about renting.

### Costs

Does the property fit within your budget? Starting a new tenancy can have significant up-front costs.

For example, renting a house at \$380 per week could cost you around \$2,500 to move in. You could have to find the money to pay for:

- rent in advance (two weeks) \$760;
- a security bond (equivalent to a maximum of four weeks' rent) \$1,520;
- a pet bond (if permitted to keep one under the tenancy agreement) to a maximum amount of \$260; and
- other costs associated with changing house, such as moving furniture, etc.

You can get a good idea of what you will get for your money by checking the 'To Let' columns of newspapers or searching reputable websites online.

### Scams

To avoid becoming the victim of a rental scam:

- Meet the prospective lessor/agent in person.
- View the property, including the inside, in person. If the lessor/agent claims an inspection cannot occur as the property is tenanted, insist on an appointment to view it properly.
- Consider going through a licensed real estate agent, rather than responding to a potentially fake listing on websites like Facebook Marketplace or Gumtree.
- Be wary of how you access the property. Does the lessor/agent access the property through the front door with a key or do they access it via a rear door that appears damaged?
- Be wary of lessors/agents who claim to live overseas or interstate and cannot meet you in person.
- Be careful of sending your identification and other personal information to an unknown source. This may result in identify theft.
- Be suspicious of properties being rented for well below the current rental market value.
- Do a Google or TinEye 'reverse image' search of property photos provided to you.

- Search the address online to see if the property exists or if it is listed by a different agency.
- Ensure you receive the keys and a copy of the signed lease agreement in exchange for any funds you have agreed to pay.
- Remember [bonds need to be lodged](#) with the department.
- Be careful if asked to pay funds via direct bank transfer unless you are sure the payment is to a licensed real estate agent. Contact them in advance to verify the bank details are correct.



#### Note:

Further information about how to protect yourself against real estate and rent scams is available at: [www.scamnet.wa.gov.au](http://www.scamnet.wa.gov.au)

### Suitability

Think carefully about whether the property meets your day-to-day needs, such as:

- Can you afford the rent and other living costs?
- Is it convenient for schools, child care centres, public transport and shops?
- Will you feel safe in the area and the home?
- Would you prefer a periodic or fixed-term residential tenancy agreement (see '[Tenancy agreements](#)')?

### Connecting services

If there are services you want to connect at the property during your tenancy, such as a telephone line or internet, you should ask the lessor/agent whether there are any problems with connecting the service. Do this before signing the tenancy agreement. It is also a good idea to check with your preferred provider to ensure they can open an account at the rental address.



## Applying for a rental

### If you are refused as a tenant

Under the Act the lessor/agent cannot refuse a tenancy because you intend to have a child living on the premises. The *Equal Opportunity Act 1984* prevents discrimination on the grounds of sex, race, age, impairment, marital status, pregnancy, family responsibility or family status, religious or political beliefs, spent convictions, sexual orientation or gender history, or the publication of details on the [Fines Enforcement Registrar's](#) website.

Minors (a person who is over 16 but under 18 years of age) may apply for a residential tenancy. A tenancy agreement may be enforced in accordance with the Act against a minor, however, there are protections in the Magistrates Court as a litigation guardian can be appointed.

### Sorting out the paperwork

There are a number of required forms to protect the rights of tenants and lessors. These forms include the tenancy agreement, property condition report, bond lodgement notices and those required for taking matters to court. These forms are available on the department's website.

Keep copies of all documents provided in a safe place.

### Application forms

Some lessors/agents will ask you to complete an application form so they can decide whether or not to accept you as a tenant. The form may ask you for details of any previous rental history and references from a previous lessor/agent, your employer, or a teacher or minister etc.

### Information about Tenancy Databases

If an agent or lessor ordinarily uses a tenancy database, they must give each applicant written notice at the time an application to rent is made stating the name of the database, the contact details of the database operator and explain that the reason the database is used is for checking the applicant's tenancy history.

If you are listed on a database the lessor/agent must provide you with a written notice within seven days after discovering you are listed on a database stating:

- the name of the database;
- that personal information about you that is in the database;
- the name of each person who listed the personal information (if identified in the database); and
- how and in what circumstances you can have the personal information removed or amended.

The lessor/agent does not have to advise you of the reason for the listing.

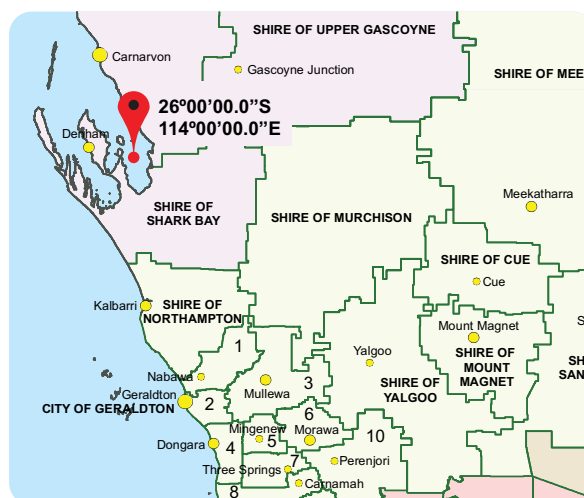
For more information on tenancy databases see '[Tenancy databases](#)'.

### Option fees

You may be asked to pay an option fee to show your rental application is genuine. The lessor/agent holds onto the option fee while they check references and decide whether to offer you the property. The amount that can be charged depends on the weekly rent and the property's location, as shown below:

Weekly rent of the property	Location of the property	
	Above 26th parallel of south latitude	Below 26th parallel of south latitude
\$500 or less	\$50 maximum	\$50 maximum
More than \$500 but less than \$1,200	\$100 maximum	\$100 maximum
\$1,200 or more	\$100 maximum	\$1,200 maximum

**Note:** Denham in Shark Bay is just above the 26th parallel.



Check whether the application form requires an option fee and whether all or part of the fee can be kept if you are successful but decide not to go ahead with the tenancy. If the lessor/agent decides not to offer you the tenancy, they must return the fee to you in full within seven days, either in cash, or by EFT. If you take up the tenancy, the option fee must be credited towards your first rent payment or refunded to you in cash.



## Tenancy agreements

When you rent a property to live in, you will most likely enter into a written residential tenancy agreement with a lessor/agent. The form to be used for a written residential tenancy agreement is prescribed by the Act.

Although non-written agreements are also recognised under the Act, a written tenancy agreement means there can be little argument about the terms and conditions agreed to by both parties at the start of the tenancy.

This agreement is a key document and should cover most of the matters concerning your relationship and the renting of the property. If an agent is managing the property on behalf of the lessor, you will be provided with the lessor's name, and the name and address of the agent. If the agreement is periodic, you will be provided with the start date (only); or if the agreement is fixed, you will be provided with the start date and end date. You will be provided with rent requirements, such as the rental amount, frequency of payments and how the rent is to be paid. In addition, the agreement should include any special conditions you both agree to and a summary of key residential tenancy laws. If the agreement relates to a strata residence, you should receive a copy of the strata by-laws; or if the residence is part of a community title scheme, you should receive a copy of the scheme by-laws.

The clauses in parts A and B of the prescribed residential tenancy agreement must not be altered. You and your lessor/agent can add any agreed additional terms (in Part C), provided these do not breach the Act or conflict with anything in part A or B of the tenancy agreement. Any additional clauses should also comply with the unfair contract term provisions in the Australian Consumer Law (ACL).

Check if the lessor intends to fix any problems you observe when you inspect the property and have this written into the agreement. Repairs must be done within a reasonable time.

Also, make sure the lessor gives you a copy of the agreement when you sign it and a final copy of the agreement signed by both the lessor/agent and you within 14 days after it has been signed and returned by you. Keep your copy in a safe place for the duration of your tenancy.

It is against the law to contract out of any section covered by the Act.

If you signed a contract/lease before 1 July 2013 slightly different obligations apply.



### Important

**Make sure you understand exactly what is in the agreement and what you are signing.**

## Fixed-term or periodic tenancy?

Depending on the circumstances, the lessor/agent can offer you a fixed-term or a periodic tenancy.

### Fixed-term

A fixed-term tenancy agreement will specify a start and finish date, and the minimum length of time you agree to stay in the property. Most fixed-term agreements are for six or 12 months though they can be for any time and offer you more certainty and security than a periodic tenancy.

Rent can only be increased during the fixed term if the tenancy agreement stipulates the amount of the increase or the method of calculating the increase. The agreement should state any conditions and whether you can automatically renew the tenancy at the end of the original period and/or renew for another fixed term. If it contains an option to renew the choice is usually yours, unless the agreement states otherwise.

Although fixed-term tenancy agreements have expiry dates they do not automatically end unless either you or the lessor/agent gives 30 days' written notice of the intention not to renew the agreement. This applies to all fixed-term tenancies (see [Ending a tenancy](#)).

If a new lease has not been agreed to, and neither party has issued a notice to terminate the fixed-term agreement prior to the expiry date, the tenancy will automatically become a periodic tenancy. All the conditions from the previous fixed-term agreement will continue to apply. The rent cannot be increased for the first 30 days of the periodic tenancy.

## Periodic

A periodic tenancy agreement can last for an indefinite time. It provides greater flexibility in case you or your lessor's circumstances change and either of you need to end the tenancy. The agreement can be ended when the lessor/agent gives 60 days' notice (or 30 days' notice when there is a binding sales contract which requires vacant possession), or you give 21 days' notice. For further information, see ['Ending a tenancy'](#).

## Sub-letting

Sub-letting, or 'assigning', the rental property is where a tenant (head tenant) rents out all or a part of the premises to another person. The prescribed tenancy agreement enables the lessor to choose whether to:

- permit you to sub-let;
- prohibit you from sub-letting; or
- permit you to sub-let but only with their written consent.

If the lessor agrees to allow you to sub-let but only with their written consent, then the lessor must not withhold consent unreasonably or charge anything other than the lessor's reasonable expenses.

If the agreement does not make any reference to your ability to sub-let, then the agreement is deemed to include the provision that sub-letting can occur with the lessor/agent's written consent.

The relationship between the head tenant and the sub-tenant is the same as the relationship between the lessor/agent and the tenant, in that the head tenant takes on the responsibilities of a lessor. These responsibilities include, but are not limited to:

- collecting money for rent, bond and other bills;
- property condition reports and inspections; and
- organising repairs and maintenance (through their own lessor/agent).

An agreement between a head tenant and a sub-tenant should not be for a period longer than the head tenant's lease with the lessor/agent.

Agreements between head tenants and sub-tenants can be verbal or written. They must be in the form [prescribed for a residential tenancy agreement](#).

Sub-tenants can also be co-tenants (see ['Shared tenancies'](#)) if there is more than one tenant living in the property on the same agreement.

## Bond (sub-letting)

The head tenant must lodge any bond they collect with the department's Bond Administrator, with the sub-tenant listed as the tenant, and the head tenant as the lessor (see ['Security Bonds'](#)).

## When a sub-tenant moves out

Moving in and out of the property proceeds as normal, with the head tenant carrying out tasks such as a property inspection and returning bond money. However, if there is one agreement, which includes the head tenant and two or more sub-tenants, co-tenancy rules apply. See ['Shared tenancies'](#).

## When the head tenant ends their tenancy

If a head tenant ends their tenancy, their agreement with sub-tenants also ends, however the correct notices and notice periods are required to be provided. The sub-tenants may not have the right to remain in the property without the permission of the owner of the property.

Any remaining sub-tenant/s wishing to remain in the property will need to negotiate a new tenancy agreement with the lessor/agent or a person replacing the head tenant. The bond then needs to be varied accordingly using a [Variation of Security Bond](#) form.

Any bond monies can be settled privately between the parties.

## Security bonds

You will usually be asked to pay a security bond in advance to cover any costs you may be liable for at the end of a tenancy, such as damage you caused to property or chattels, including common areas and chattels within a common area where relevant, outstanding water usage charges or unpaid rent.

When you or another tenant pays the bond, the lessor/agent must immediately issue a receipt. The receipt must show the name of the person who paid, the amount paid, the date of payment and the address of the rental premises.

It is against the law for you to be asked to sign or electronically lodge a bond disposal form before your tenancy has ended.

The security bond cannot be used by any party or person unless by written agreement or by a court order.

Generally, the security bond must not be more than four times the weekly rent, but there are exceptions. If the weekly rent is \$1,200 or more per week then the lessor/agent may charge a bond higher than four weeks' rent.

If the tenancy agreement allows you to keep a pet capable of carrying parasites that can affect humans, such as cats, birds or dogs, an additional amount of no more than \$260 can be charged as a pet bond to meet the cost of fumigation at the end of the tenancy. A pet bond cannot be charged for assistance dogs.

Keep in mind that the by-laws of some strata properties do not allow tenants or occupants to keep any or particular animals on the premises.

The keeping of certain dogs such as an American Pit Bull Terrier is restricted under the Dog Regulations 2013. For advice on the legality of any pet you may want to keep, contact your local council ranger, your vet or the Department of Local Government, Sport and Cultural Industries.

### Depositing the bond

The lessor/agent must deposit the bond with the department's Bond Administrator as soon as possible and in any event within 14 days of receiving it.

If more than one person has paid the bond, such as in a shared house, it is important to record the names of all who have paid on the bond lodgement form to protect each person's share (see ['Shared tenancies'](#)).

The Bond Administrator will send you and the lessor/agent a record of the payment directly from the department.

If you do not receive this record in the first few weeks of moving in, please contact the department on 1300 30 40 54.

### Complaints about bonds

The department will handle complaints concerning bonds where:

- the amount of bond money charged is more than is allowed under the Act;
- a receipt for bond money paid has not been issued by the lessor/agent; or
- the bond money has not been paid to the Bond Administrator.

For information on getting your bond back, see ['Getting your bond back'](#) in ['Ending a tenancy'](#).

### Paying rent

The lessor/agent cannot:

- Ask for more than two weeks' rent in advance in the first two weeks of the tenancy. You can choose to pay more if it suits your salary pay period.
- Overlap the rental pay periods. Rent should not be requested to be paid until the period covered by the previous payment is finished.
- Ask you for a post-dated cheque (one dated sometime in the future).

Rent is not considered to be paid until it is received by the lessor/agent. Therefore if you pay by electronic transfer or a personal/company cheque, you should consider making the payment before the due date to be sure the funds are cleared into the lessor's/agent's account by the due date and you are not in breach of the tenancy agreement. If paying by electronic transfer, you should always ensure you have the correct account details. If you receive an email from a lessor/agent providing different bank account details always ensure that you confirm the account details verbally.

If the tenancy agreement specifies that you are required to pay rent via a third party/rent collection company, an administration fee can only be charged to you directly from the third party or rent collection agency. If your tenancy agreement has an option for rent to be paid to a third party or rent collection agency, you must be given at least one alternative payment option which does not incur additional fees.

See the department's website for more information on [paying rent and additional charges](#).

### Property condition report

The lessor/agent must prepare a report describing the condition of the property at the start and the end of the tenancy. The [Property condition report](#) (Form 1) is available on the department's website. The form can have additional detail included but cannot have any content removed.

The report sets down and lists, on a room-by-room basis, all the contents of the rental premises and identifies if they are clean, damaged and/or in working order (including fixed appliances such as ovens, exhaust fans and air conditioners, water heaters etc.). Further comments about anything damaged or in bad condition can also be included, for example, a cracked ceiling, torn fly screen, stained carpet, dirty or chipped walls.

Within seven days of you moving in the lessor/agent must provide you with two copies of the property condition report. You have a further seven days to make comments on and mark anything you disagree with on both copies and return one copy to the lessor/agent. Keep your copy along with the evidence showing you have sent the lessor/agent a marked up copy in a safe place as this will be important evidence if a dispute arises at the end of your tenancy. If you do not return a marked up copy within the seven days, it is understood that you have accepted the report provided as an accurate description of the property at the commencement of your tenancy.



If you and the lessor/agent do not agree, the property condition report is not considered to reflect the condition of the property. You should meet the lessor/agent to view the property jointly and compare the differences in an attempt to resolve the disagreement. If you still cannot agree at the end of the tenancy, a court can look at the marked up copy and other evidence.

When completing the property condition report, you should follow these steps:

- Check the premises for cleanliness and maintenance issues including insects and pests and building maintenance, for example roof tiles, guttering, taps and the hot water system.
- Check security including locks, the state of doors, windows, and fencing.
- Ensure the description of the condition of any lawns or garden beds, including shrubs and trees, plus the type and number of garden sprinklers and the condition of any bore or reticulation system is accurate and that any equipment is in working condition.
- If there is a swimming pool or spa, ensure the record of its condition is accurate and ensure any accessories and cleaning equipment provided are included in the report and that they work.
- Check that the pool fence barrier is effective to stop children from accessing the area to reduce the risk of drowning.
- Take photographs or make a digital recording showing any problem areas and the date the record was made.

As soon as possible and in any event within 14 days after the end of the tenancy, the lessor/agent must conduct an inspection of the premises, prepare a report describing the condition of the premises and provide a copy of the report to you. The lessor/agent must also give you a reasonable opportunity to attend the final inspection. For more information (see '[Final inspection](#)').



### Important

Getting the property condition report right at the beginning of the tenancy can help prevent bond disputes at the end.

## Documents and information you must be given

At the commencement of the tenancy you must receive:

- A copy of the prescribed [Residential tenancy agreement \(Form 1AA\)](#) (if using a written residential tenancy agreement):
  - when you sign it; and
  - within 14 days of all parties signing the agreement.
- A copy of the [Information for tenant](#) (Form 1AC)
  - If there is a written tenancy agreement, the Form 1AC is to be provided at the time of entering into the agreement.
  - If there is a verbal tenancy agreement, the [Information for tenant with a non-written agreement](#) (Form 1AD) must be provided within 14 days after you take possession of the premises.
- A copy of any applicable strata or community titles by-laws.
- Two copies of a completed [Property condition report](#) (Form 1) within seven days of moving into the property.
- If you paid a security bond, you must receive a completed [Lodgement of security bond form](#) to sign so it can be lodged with the Bond Administrator. If your lessor/agent is eligible to use BondsOnline eTransactions, this can be done electronically and you will be sent an email asking you to approve the details online.
- A receipt for the security bond showing the date, amount, who paid and the address of the premises.
- The lessor's full name and address. If the property is managed by a real estate agent, they will provide the lessor's name but not their address.

If more than one person owns the property, the details of the head lessor will be provided. If the lessor is a company or other body corporate, you will be provided with the name and business address of the secretary of the owning company.

## Moving in

When you move in, it is the lessor/agent's responsibility to make sure the premises are vacant, clean with all utilities and appliances fully functional on that day. If utilities are not included in the tenancy agreement it is your responsibility to organise the connection of those services in your name.

When you move in you should be given the keys and other access devices to lockable doors, gates, windows, the garage and letterbox. You cannot be charged a deposit for keys and other access devices, but may have to pay for any replacements should you lose or damage them.



# Safety and Health

## Locks and security

Residential tenancy laws in Western Australia have always required lessors to provide and maintain locks or other devices to ensure rental premises are 'reasonably secure'. Minimum levels of security are now defined so your lessor/agent must ensure the rental property complies with the required security relating to door locks, window locks and exterior lights.

These security measures include a requirement that:

- The main entry door has a deadlock or a key lockable screen door.
- All other external doors (excluding balcony doors where there is no access to the balcony except from inside the premises) are fitted with a deadlock or, if a deadlock cannot be fitted, a patio bolt lock or a key lockable security screen.
- All exterior windows be fitted with a lock that prevents the window from being opened from the outside (unless the window is on or above the second floor and not easily accessed from outside the premises or is fitted with a security window grille).
- The main entry be illuminated by a light that can be operated from inside the premises unless the strata company or community corporation, where the residential premises are part of a strata or community title scheme, maintains adequate lighting to the main entry to the premises.

Further information is available from the department's website and in the fact sheet [Minimum levels of security](#).

## Residual current devices

The lessor/agent must ensure at least two residual current devices (RCDs) are professionally installed at the residential premises to protect all power point and lighting circuits in the property, including any powered sheds, garages, etc. before any new tenancy agreement commences.

For common areas of strata title properties at least one RCD is to be fitted to protect power points and lighting circuits.

Penalties of up to \$15,000 for individuals and \$100,000 for bodies corporate may apply if RCDs are not fitted. For more information visit [www.commerce.wa.gov.au/rcd](http://www.commerce.wa.gov.au/rcd) or call Building and Energy on 1300 48 90 99.



## Smoke alarms

The lessor/agent must ensure the property has working smoke alarms. Most dwellings built since 1997 already comply with the requirement to have professionally installed smoke alarms.

Where mains-powered (hard-wired) smoke alarms cannot be fitted (a common issue in multi-storey buildings), approved battery-powered smoke alarms must be fitted before any new tenancy agreement commences.

Mains-powered smoke alarms also contain rechargeable batteries in case of a blackout, so both kinds must be less than 10 years old (the whole alarm, not just the battery).

You are most likely to be responsible for keeping smoke alarms in working order by changing the battery on a regular basis if it is reasonably accessible.

For more information, visit:

[Building and Energy](#)

[Department of Fire and Emergency Services](#)

## Swimming pools and spas

If the property has a swimming pool or spa there are responsibilities for both the tenant and the lessor/agent.

It is the lessor's responsibility to provide safety barriers and any equipment to properly maintain and take care of the pool or spa, such as scoops or vacuums. At the start of your tenancy, the lessor/agent should make sure the water is clean, chemically balanced and the pool and equipment are serviceable.

Unless the written agreement states otherwise, it is your responsibility to keep the pool or spa clean and maintained, including the ongoing chemical supplies. It is also your responsibility to keep the safety barrier shut and make sure it is in good working order. You must advise the lessor/agent if the barrier is damaged or not working properly. The lessor must repair it as soon as practicable.

Local government authorities enforce pool and spa enclosure safety requirements. It is advisable the lessor/agent check barriers every four years to ensure they are compliant with current safety standards.

You must ask the lessor/agent for permission to install a portable pool or spa.

If you set up a portable pool or spa that is capable of holding more than 300mm of water, you are responsible for all safety requirements such as pool barriers, which must comply with any local government requirements.

Building and Energy produces resources about [pool and spa barriers](#) which are available on its website.

## Blinds and window coverings

The lessor/agent is responsible to ensure that all aspects of a tenanted property comply with laws relating to buildings and health and safety.

Mandatory requirements for corded internal window coverings were implemented due to the risk of strangulation to children through curtain and blind cord fittings.

Product safety laws for internal window coverings have applied in Western Australia since 2004. A lessor must ensure that blind/curtain cords and chains supplied after this date meet the national product safety requirements. If a cord or a chain for a blind or curtain hangs lower than 1.6m from the floor then it must be secured by a safety device.

To find out more, visit [www.commerce.wa.gov.au/consumer-protection/blind-and-curtain-cord-safety](http://www.commerce.wa.gov.au/consumer-protection/blind-and-curtain-cord-safety).

## Affixing furniture

Tenants are now permitted to anchor furniture in a rental property, with the lessor/agent's permission, to ensure the safety of a child or a person with a disability.

A lessor/agent may only refuse permission if the property is on the Register of Heritage Places, is under strata or community scheme by-laws which prevent the anchoring, or if the anchoring would disturb asbestos material.

You must submit a [Request to lessor to affix furniture form](#) (Form 24).

Aside from anchoring furniture to ensure the safety of a child or a person with a disability, the tenancy agreement should specify whether or not you may further attach fixtures, renovate, or alter the property. If the agreement says these changes can be carried out only with the consent of the lessor/agent, that permission should not be withheld or refused unreasonably. You must obtain permission first and preferably in writing.

The tenant will be responsible for removing any affixed items from the walls when they vacate the property and for either repairing or paying for repairs to any damage caused to the property by affixing the furniture.

Where a rental property is furnished the lessor is responsible to secure any furniture that may pose a hazard.

## Gas and electricity safety

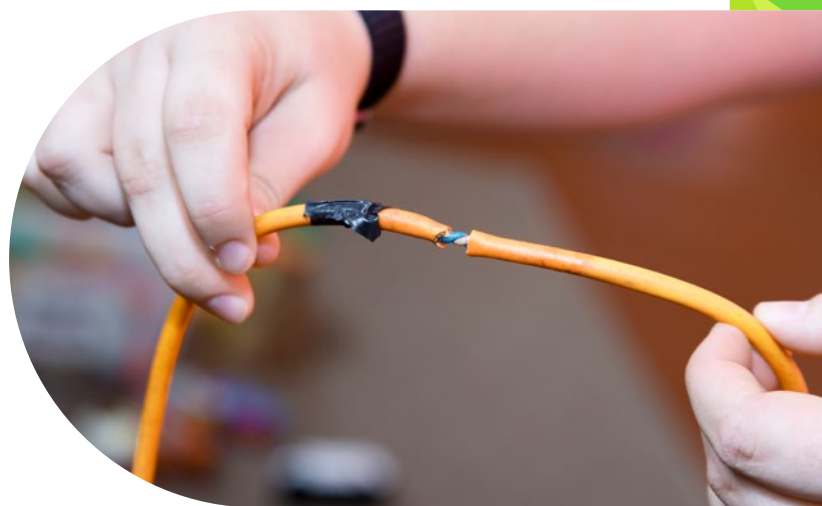
If you have an urgent issue with the electrical supply such as receiving shocks from electrical plugs or taps, fallen power lines or another dangerous situation you should immediately contact your network supplier.

The network supplier in metro areas is Western Power on phone number 13 13 51.

For much of regional Western Australia phone Horizon Power on phone number 13 23 51, however in some towns it may be Rio Tinto on phone number 1800 992 777.

For a gas emergency or if you can smell gas you should turn off the gas supply immediately. If the gas is on a mains supply, contact ATCO Gas Australia on 13 13 52. If using bottled gas, contact the gas supplier.

Once the immediate electrical/gas hazard has been addressed, report the issue to your lessor/agent.



## Illegal drug activity

Illegal drug activity is cause for concern for tenants, lessors and agents due to the potential health and safety risks to occupants. Of primary concern are rental properties which have been used to manufacture, grow or smoke illegal drugs.

Clandestine laboratories (clan labs) are places where illegal drugs (commonly methylamphetamine or meth) are secretly manufactured often in an unsafe manner. Clan labs can pose a number of risks to human health, including exposure to the production residue of meth and also from toxic and/or flammable gasses used in its manufacture. While the police may remove the raw chemicals and equipment from a property, contaminant residues can be absorbed into the building structure and furnishings.

Cannabis grow houses are properties which have been extensively modified to grow large crops of cannabis hydroponically. Structural damage and mould infestation can result.

Smoke houses are properties in which illegal drugs such as meth, heroin and cannabis, are smoked regularly but not manufactured. Generally drug residues in these properties tend to be much lower than those used for manufacture.

The lessor has the responsibility to ensure their property is safe and clean for tenants.

Properties that have been used for growing or manufacturing illegal drugs can expose tenants to physical harm caused by unsafe electrical systems. If you think that the property you are renting has been used in this way you should immediately notify the lessor/agent.

Should you become ill from the effects of a clan lab, you may be able to lodge a claim for compensatory damages. Symptoms of exposure range from behavioural changes, sleep disturbance and respiratory problems.

Unless a property has been used to manufacture drugs the common view is that a thorough clean is often all that is required. A lessor/agent may choose to adopt a cleaning regime for all new tenancies as a precautionary measure. This requirement should be included in the tenancy agreement as it could mean additional cost at the end of a tenancy.

The Department of Health guide, [\*Illegal Drug Activity in Homes: Managing Risk – A Guide for Occupants, landlords, Property Managers and Agents\*](#) is a useful publication.

# Shared tenancies

Shared tenancies are when two or more generally unrelated tenants live in a rental property. There are multiple variations of shared tenancies and they can be more complex than individual tenancies. Your rights and responsibilities in a shared tenancy depend on a number of factors.

Please note, the lessor/agent must always consent to all tenants living in the premises.

## Co-tenancy (shared tenancy agreements)

In a co-tenancy, two or more people rent together on a shared tenancy agreement, such as in a share house. In a co-tenancy, co-tenants are recognised as one party, so they share responsibility for things like paying rent and looking after the premises. You should ensure you can trust and communicate well with anyone you sign a tenancy agreement with.

### Co-tenants paying rent and other bills

Co-tenants must decide who is responsible for paying rent and bills, and how much is payable by each party. It is a good idea to put this in writing. You will also need to organise for the payment to be made to the lessor/agent on time. It is likely the tenancy agreement will make each co-tenant personally liable for the whole rent amount, so if one co-tenant does not pay their share, the others will need to cover the difference, regardless of the agreement between the co-tenants.

### Bond for co-tenants

If a security bond has been charged, it must be lodged with the Bond Administrator for the tenancy. Each contributor must be listed against the bond as a tenant of the property. Costs for damage caused by your co-tenants can be recovered from your bond contribution, due to your joint liability for the condition of the property.

### Changing co-tenants during the tenancy agreement

Sometimes in shared tenancies, co-tenants will change during the term of the current tenancy agreement. In these cases, you might agree with the lessor/agent to terminate the tenancy agreement and put a new one in place. Otherwise the lessor/agent and remaining tenants can vary the tenancy agreement to remove the vacating tenant and/or add the incoming tenant.

A lessor/agent can refuse to end or vary a tenancy before the end of the agreed term, except under certain circumstances (see [‘Ending a tenancy’](#)).

### When a co-tenant moves out

When one co-tenant moves out during the term of a tenancy agreement, they must negotiate to have their name removed from the tenancy agreement. If your co-tenant moves out but their name remains on the tenancy agreement, they can still be held responsible for payment of rent and other obligations.

If your lessor/agent has agreed to remove a co-tenant from a lease they will have to provide an outgoing property condition report to the vacating tenant.

If there is any need for maintenance, repairs or cleaning that is deemed the responsibility of the vacating co-tenant (see [‘Who is responsible for damage?’](#)), the cost can be recovered from their bond contribution.

You should settle bond monies privately, then sign a [Variation of Security Bond](#) form to be lodged by the lessor/agent.

### When a co-tenant moves in

When a new co-tenant moves in or replaces an outgoing tenant, the lessor/agent should provide an up-to-date property condition report to the new co-tenant. An incoming tenant cannot be held liable for the condition of the property before they moved in.

The lessor/agent must vary the tenancy agreement to list the new co-tenant, and lodge a [Variation of Security Bond](#) form to add their name to the bond. You should settle bond monies privately before signing the form.

### Complications between co-tenants

The department is not able to assist with disputes between co-tenants because they are private matters. It is a good idea to have certain arrangements with your co-tenants in writing, such as payment of rent and property maintenance. This helps avoid major disputes.

One way to avoid common complications is to enter into separate tenancy agreements, or [rooming arrangements](#), with the lessor/agent.

Call the Consumer Protection Contact Centre on 1300 30 40 54 for further information or advice.



## When a co-tenancy ends

When all co-tenants move out, it should be similar to when a typical lease ends. However, there may be some private matters to settle between co-tenants, such as cleaning the property, transferring bond monies and ownership of shared belongings.

For more information, call the Consumer Protection Contact Centre on 1300 30 40 54.

## Rooming arrangements (separate tenancy agreements)

In a rooming arrangement, tenants live in the same property but are on separate tenancy agreements. Each tenancy agreement and bond should designate which part of the premises the tenant is renting and therefore liable for.

Rooming arrangements are ideal for shared tenancies, as they improve protections for tenants provided by the Act and simplify rental matters. The table below outlines the differences between shared tenancy agreements and separate tenancy agreements.

	Co-tenancy (shared tenancy agreements)	Rooming arrangements (separate tenancy agreements)
<b>Rent and bills</b>	All co-tenants make private arrangements on who pays what share and usually transfer the money to the lessor/agent in one payment.	Each tenant pays the lessor/agent their share directly.
<b>Missed payments</b>	All co-tenants are liable if a co-tenant misses a payment, meaning their share must be paid by the other tenants or the tenancy agreement will be in breach.	Each tenant is not responsible for anyone else's missed payments.
<b>Bond</b>	All co-tenants contribute to one bond. You must privately arrange the transfer of bond monies between co-tenants, i.e. initial lodgement and transfer if tenants change.	Each tenant pays their bond to the lessor/agent directly. It is a separate bond.
<b>Damage to the premises</b>	Liability for the condition of the entire property is shared. If damage is caused to the property by a co-tenant's negligence, you need to arrange privately who will pay the cost of repairs.	Liability for the condition of areas of the property is outlined in each tenancy agreement. For example, one tenant may be renting Room A, so is liable for the condition of Room A and common areas.  If a tenant causes damage but fails to pay the cost of repairs, the lessor/agent must handle the issue.



# Once the tenancy begins

## Minimising problems

Even with the best preparation, unforeseen difficulties between tenants and lessors/agents can still arise.

If you experience a problem, please refer to the list of contents at the front of this guide and read up about the topic before making any decisions.

Try to resolve problems through calm discussion.

If you need any further information or advice, please phone the Consumer Protection Contact Centre on 1300 30 40 54. Remember you have the right to:

- complain about aspects of the tenancy you believe breach the tenancy agreement or the Act; and
- have your complaints dealt with fairly.

## Receipts and records

If the rent is paid by electronic transfer into an account at a bank, building society or credit union, the lessor/agent does not have to give you a receipt as the bank record is sufficient.

However, if you pay rent directly to the lessor/agent, by cash or cheque, they must give you a receipt within three days of the rent being received.

The rent receipts must show the name of the person paying the rent, the date the payment was received, the amount paid, the address of the rental premises and the rental period covered by the payment.

The lessor/agent must keep a record of all rent paid and you should keep your own records of rent payments made including all the receipts, just in case there is ever a disagreement about rent payments.

## Rent increases

For most tenancies, the [Notice to tenant of rent increase](#) (Form 10) should be used by the lessor/agent. This gives you at least 60 days' notice about a rent increase and includes details of the amount of the increase and the day it will take effect.

In rare cases where your income is used to calculate the rent (such as when the employer provides the rental premises and charges a percentage of your income as rent) the [Notice to tenant of rent increase calculated by tenant's income](#) (Form 11) should be used. This notice is only required for a change to the method of calculating the increase, not for automatic increases that occur as your income changes.

Different rules apply to rent increases depending on whether the tenancy is fixed-term or periodic.

During a **fixed-term tenancy**, where your rent is not based on income, rent can only be increased during the fixed term if the tenancy agreement stipulates the amount of the increase or the method of calculating the increase (such as CPI or a percentage) provided it has been six months since the start of the agreement or since the last increase. The method of calculating the increase cannot be listed as 'market rent' as that does not clearly identify what the rent increase is likely to be.

The lessor/agent doesn't have to give a notice of an increase if a fixed-term tenancy agreement is being renewed with an existing tenant, however, the rent cannot be increased for the first 30 days after the new agreement begins.

During a **periodic tenancy**, the lessor/agent cannot increase the rent in the first six months, or less than six months after the previous increase.

Regardless of the type of tenancy, you only have to pay the increase if you have been given the proper notice on the required form.

If you believe the lessor/agent is increasing the rent by what you believe is an unreasonable amount, see ['When things don't work out'](#).

## Rent decrease

If there is a significant loss or reduction in the amenities provided as part of the agreement, you may wish to ask the lessor/agent about a decrease in rent for the time the amenities are unavailable.

Alternatively, you could apply to the Magistrates Court for a rent reduction. A court application would need to be made within 30 days of receiving the rental increase notice or the date that the chattels, facilities or amenities were affected.

## Rent in arrears

If you fall behind with the rent and don't remedy the situation within an agreed time, the lessor/agent can apply to end your tenancy (see ['Ending a tenancy'](#)).

## Additional fees and charges

You are not responsible for any payments other than rent and bond (and utilities, if this forms part of your lease).

Lessor/agents are not allowed to charge you fees for their day-to-day management of the tenancy or things such as sending you invoices or breach notices.

However, you can be asked to compensate the lessor if it is shown that by breaching the agreement you have cost the lessor money. The compensation is for the lessor not the agent.

Before you can be asked to pay compensation, it should be shown that the amount is justified and allowable under the law. If you dispute the charge, you are entitled to have the matter heard in the Magistrates Court.

If you are uncertain about any fees or charges you are being asked to pay, contact the Consumer Protection Contact Centre on 1300 30 40 54 for advice or lodge a written complaint.

## Varying the security bond

If the lessor/agent of a rented property changes during the tenancy, you and any other tenants and the Bond Administrator must be notified and the bond varied. A [Variation of security bond](#) form must be signed or electronically approved by the new lessor/agent and the previous lessor showing the full name and address of the new lessor or agent, where the property is managed by an agent.

For varying the bond in shared and co-tenancies, see '[Shared tenancies](#)'.

A Variation of security bond form must be completed to notify the Bond Administrator of the change of tenants, so that at the end of the tenancy the bond can be paid out to the correct tenants and/or the lessor. If the lessor/agent uses [BondsOnline eTransactions](#), this form can be submitted electronically and you will be sent an email asking you and any other tenants to approve the details of the change online (see '[Ending a tenancy](#)').

## Effect of rent increase/decrease on Bond

A Variation of security bond form must be lodged when a tenancy agreement provides that the amount of bond payable is increased following a rent increase. This is to ensure that the amount of bond held represents four weeks' rent at the new rent amount.

The bond can be reduced at any time with the consent of both parties, however there is no obligation on the lessor/agent to partially refund the bond if the rent is decreased during the tenancy.

## Who's responsible in a tenancy?

Tenants and lessors have shared responsibilities.

When you move in, the lessor/agent must have ensured the premises are habitable, functional and in a reasonable state of cleanliness and repair.

You must be notified of the lessor's name and address when you commence your tenancy. If the property is under management, you must still be provided with the lessor's name, but in place of the lessor's address, you will be provided with the contact details of the agent.

You must keep the property clean and tidy. At the end of a tenancy you need to hand it back in a similar condition to how it was at the start of the agreement, taking into account normal use (fair wear and tear).

If fixtures or chattels such as a TV aerial, air conditioner or solar hot water system were provided in working order when you inspected the property the lessor must maintain the items unless they were disclosed as not functioning in the tenancy agreement.

## Your conduct on the premises

You and anyone you allow onto the premises, must not:

- cause a nuisance, such as making excessive noise that disturbs neighbours;
- breach any local government laws pertaining to parking, littering or dogs; or
- use the premises for any illegal or undisclosed business or commercial activity.

## Maintenance, repairs and alterations

### Maintenance inside

While you are renting, the lessor must keep the premises in a reasonable state of repair and comply with building, health and safety laws. The lessor is responsible for the upkeep of the property including:

- plumbing;
- oven and stove tops;
- water heaters;
- air conditioners; and
- fixed or provided appliances such as the stove, unless you have damaged them.

You are responsible for basic household maintenance, including:

- replacing light globes unless special tools or equipment are required, e.g. light over a void in a staircase;
- cleaning windows unless special tools or equipment are required, e.g. exterior windows on the outside of an apartment building;
- litter and rubbish removal and general cleaning;
- dusting and removing cobwebs inside and out; and
- ensuring there is adequate ventilation to help avoid mould problems occurring.

Mould or mildew caused by faults in gutters or other fixtures is the responsibility of the lessor.

## Maintenance outside

You are responsible for garden maintenance, such as:

- watering;
- mowing;
- edging lawns;
- weeding; and
- light pruning.

The lessor should provide you with the necessary hoses, sprinklers etc.

If you become aware of any potential damage to gutters through leaf blockages, or notice a water leak, you must advise the lessor/agent. If the leak is obvious and you fail to report it, you may be liable for the costs of water lost.

The lessor is responsible for maintenance to any garden including:

- reticulation system;
- tree lopping;
- cutting back overhanging branches (such as those near power lines); and
- maintaining fire breaks, unless your tenancy agreement states otherwise.

## Pest and vermin control

As a general rule, any outbreak or infestation of pests such as rats, mice, possums, cockroaches, termites, ants, spiders, wasps or bees requiring attention by a pest control operator is the responsibility of the lessor.

The lessor is not responsible for infestations caused by your activities or lack of cleanliness. You are required to take basic pest prevention measures, such as storing food properly and using sprays and baits.

## Painting

The lessor is responsible for painting, unless the damage was caused by your negligence.

You can carry out painting only if you have the permission of the lessor/agent but remember, the lessor will probably choose the colour.

## Alterations and additions

Aside from anchoring furniture to ensure the safety of a child or person with a disability your tenancy agreement may or may not allow you to attach fixtures like picture hooks, or renovate and alter the property. If the agreement states that these changes can be carried out with the consent of the lessor/agent, consent cannot be unreasonably refused. You must obtain the lessor's/agent's permission first and preferably in writing, other than when necessary to prevent family violence that you suspect is likely to be committed against you or your dependent (see [‘Tenants affected by family and domestic violence’](#)).

If fixtures or chattels such as a TV aerial, air conditioner or solar hot water system were provided in working order with the property when you inspected it the lessor/agent must maintain the items unless they were disclosed as not functioning before the tenancy agreement was signed and should be listed in Part C of the tenancy agreement.

## Urgent repairs

Urgent repairs are those necessary to supply or restore an essential service, or to avoid:

- exposing a person to the risk of injury;
- exposing the property to damage; or
- causing you undue hardship or inconvenience.

You must inform the lessor/agent of any urgent repairs as soon as possible.

The lessor/agent is required to arrange (not necessarily complete) urgent repairs to essential services within 24 hours and address other urgent repairs within 48 hours.

‘Essential services’ include the following services:

- gas;
- electricity;
- functioning refrigerator (if supplied with the premises);
- sewerage/septic/other waste water treatment; and
- water including the supply of hot water.

If despite making reasonable attempts, you cannot contact the lessor/agent, or you contact them and they take no action to fix an essential service within 24 hours or 48 hours for other urgent repairs, you can have the minimum repairs carried out by a qualified tradesperson and claim back the costs. The urgent repair costs must be reasonable and it is advisable to obtain some evidence showing the need for the urgent repair was not your fault. For example, you could ask the tradesperson to write on the invoice an explanation of the cause of the problem.

As soon as possible after the repairs are carried out, the lessor must reimburse you for any reasonable expenses you have incurred.

### Neglectful damage versus fair wear and tear

You are not responsible for costs arising from 'fair wear and tear'. The following examples may help to explain the difference between wear and tear and damage:

Neglectful damage (You are responsible)	Fair wear and tear (the lessor is responsible)
Stains or burns from things you dropped or placed on carpets including soiling by pets.	Carpet wear in corridors or other areas used frequently.
You forgot your key and broke a lock to get in.	The lock broke because it was old and had worn out.
Mould has formed because you failed to open windows or use exhaust fans and the dwelling was not aired adequately.	Mould has formed because there is no adequate way of ventilating the property such as windows which can be secured open or exhaust fans.
Your pet damages the curtains.	Curtains have faded/torn from years of exposure to sunlight.

### Who is responsible for damage?

You must not intentionally or negligently damage the rented property, including common areas and chattels within a common area, where relevant.

If you or someone you invited onto the property cause damage, you must notify the lessor/agent as soon as possible, and expect to pay for repairs or replacement.

However, if the damage is caused by a third party not directly connected with you, or you did not invite them onto the premises, or the event was outside your control e.g. break-ins, floods or traffic accidents, then the repairs are the lessor's responsibility.

Similarly, if your own possessions are damaged by a problem, such as a ceiling collapsing or leaks from the roof, or if the lessor/agent or a person accompanying them damages your possessions while they are on the premises, the lessor/agent will be liable.

Any existing damage to the property, or other issues, should be noted in your property condition report.

Before you unpack your belongings into any rental property it is a good idea to take photos of all rooms, gardens and any problem areas. It is also a good idea to take as many photos as possible before you vacate the property in case there is a dispute over the condition in which you left the property.

### Insurance

As a tenant, it is your responsibility to take out your own contents insurance to cover your personal belongings. Damage and loss can come from various sources, such as theft, water damage, fire and other natural disasters. The lessor's building insurance covers their building, fittings and fixtures. It does not generally cover your things.

### Utilities

#### Water usage costs

You must pay for the water you use unless your agreement provides for sharing costs, for example, shared costs for watering gardens.

The lessor is responsible for paying the annual water rates and service charges.

The Water Corporation recognises when there is a change of tenancy the new tenants may be disadvantaged if their usage is less than the previous tenants. To avoid this happening, a 'special meter reading' can be taken at the end of a tenancy. The lessor/agent will probably arrange for this reading. If not, you can request one, but if you do, remember you will have to pay for it.

Make sure you know what the reading was at the start of your tenancy and record it in writing – preferably in the property condition report or tenancy agreement.

You have the right to discuss the water bill with the Water Corporation, if this is allowed in your tenancy agreement.

If there are separate water meters on the property, the Water Corporation may be authorised by the lessor/agent to send water use accounts directly to you. When checking your water accounts, make sure only charges for water use are included and there are no water rates or outstanding unpaid charges from a previous tenant.

If the water use account is issued to the lessor/agent, they must provide you with written notice of the charges, including the meter reading, the charge per metered unit and any applicable GST component, when requesting payment from you. The lessor/agent may choose to provide you with a copy of the account issued by the Water Corporation.

If there are no separate meters on the property, the lessor/agent must have a prior agreement with you in writing about how the consumption charges will be calculated (check your tenancy agreement). When they ask you to pay for your consumption, the lessor/agent must give you an account showing how the charge was calculated using the agreed method and any applicable GST component. If the water account is sent directly to the lessor/agent, regardless of whether the property has a separate meter or not, the lessor/agent must provide you with written notice of the usage costs within 30 days of the lessor/agent receiving the invoice or you are not responsible to pay.

Although you can be required to pay for all the water you use, some lessors will agree to pay part or the entire bill to cover the cost of maintaining lawns and gardens. The prescribed tenancy agreement provides space to include the percentage of water usage costs you need to pay.

If you hold a Pensioner Concession Card or State Concession Card, contact the Water Corporation, as you may be eligible for reduced water charges.

For further information on water consumption charges, billing or water conservation measures contact the Water Corporation on 13 13 85.

## **Water – where there is no mains supply**

Where there is no mains water supply the lessor is responsible for maintaining the water storage facilities.

The tenancy agreement should specify who has responsibility for ensuring the supply of and payment for the supply of potable water. A tenancy agreement

may also include a term which requires a tenant to leave a full tank at the end of a lease where a full tank was provided at commencement.

If this is not the case ensure you note the amount of water provided at the commencement of the tenancy in the property condition report.

## **Electricity and gas**

If there are separate meters for electricity and gas, you will probably be billed directly, though the lessor may choose to keep the bills in their own name.

If the property does not have separate metering, the lessor/agent must have a prior written agreement with you detailing how the costs for these charges will be calculated (check your tenancy agreement). You can only be charged for consumption.

At the time of asking you to pay for your consumption of electricity or gas, the lessor/agent must provide you with written notice of the charge, including the meter reading, the charge per metered unit and any applicable GST component, within 30 days of the lessor/agent receiving the invoice from the service provider. If the written notice is not provided within 30 days you are not responsible to pay the charge.

The lessor/agent may choose to provide you with a copy of the master bill as a statement showing how your share was calculated.



### **Important**

**If the lessor/agent does not provide you with a written notice of the charge within 30 days of receiving the invoice from the utility provider you are not required to pay the charge.**

## **Gas cylinders**

If the tenancy agreement stipulates that gas is separately metered and there is no mains supply the responsibility for costs will depend on whether the gas account is in the name of the tenant or the lessor.

The agreement should state if the tenant or the lessor is responsible for the supply of gas. Where the tenant is required to engage a gas cylinder supplier the tenant will be responsible for paying all charges imposed by the supplier and should ensure that the account is finalised at the end of the tenancy. As the gas cylinders remain the property of the supplier the tenant is entitled to have the cylinders relocated (by the gas cylinder supplier) to another premises at the end of the tenancy.



If the lessor maintains the gas bottle supply to the property in their own name they can only pass costs to the tenant if the method of calculating the gas consumption charges are included in the tenancy agreement. If the agreement does not include references to charges for consumption, portage costs or supply then the lessor is responsible for these costs.

The tenancy agreement may also include a term which requires a tenant to leave a full gas cylinder at the end of a lease if there was a full gas cylinder provided at commencement.

## Rates

The lessor is responsible for paying local council rates.

## A summary – Who is responsible in a tenancy?

The following table provides a quick reference to the information in this section. It is not a complete list and some responsibilities will depend on particular circumstances and the agreed details of the tenancy agreement.

Generally, as a tenant you are responsible for	Generally the lessor is responsible for
The premises being kept clean and tidy and handing it back in a similar condition to which it was in at the start of the agreement	The premises being provided in a habitable and reasonable state of cleanliness, function and repair and complying with building, health and safety laws such as smoke alarms and pool fencing
Basic household maintenance such as replacing light globes, smoke alarm batteries where practical	Repairs like plumbing, maintenance of chattels/ contents provided such as a refrigerator, washing machine, hot water supply
General garden maintenance such as mowing, weeding and light pruning	Major garden maintenance such as tree lopping, fire breaks. Provision and maintenance of sprinklers etc.
Day to day maintenance of any swimming pool or spa	Ensuring any swimming pool/spa meets mandatory safety standards and is clean and chemically balanced at the start of the tenancy. Provision of maintenance equipment such as vacuums, scoops, etc.
Carpet stains and burns, breakages etc.	Costs arising from fair wear and tear such as carpet wear and flaking paint
Loss or damage to your personal property unless caused by the lessor/agent or a problem with the premises	Repair of damage to the property caused by a third party or events outside the tenant's control such as break-ins, traffic accidents
Payments for water used if on mains supply otherwise payment for and ordering of water supply	Payment of water supply charges and if not on mains supply provision and repair of water supply facilities
Payment of gas and electricity accounts. If account not in your name payment of consumption as outlined in the lease agreement	Electricity and gas charges for common areas of a strata complex such as a shared laundry or outside lights
Pest infestations such as fleas caused by your pets. Prevention of pests by proper storage of food and by using sprays and baits	Pest and vermin control such as rats, mice and termites
Putting bins out and rubbish removal	Payment of local council rates
Replacing lost or damaged keys and access devices	Providing minimum security measures

## Inspections

Tenants are entitled to the 'quiet enjoyment' of the property. In other words, you can expect to have peace, privacy and comfort while living in the property. When the lessor/agent wants to access the property, they must provide you with the appropriate notice required under the Act. The lessor/agent should not interfere with your privacy or use of the property.

The lessor/agent has the right to enter the rental premises:

- to conduct routine inspections at a reasonable time. However, written notice of no less than seven days and no more than 14 days before the proposed entry must be provided;
- to collect the rent at a reasonable time. This must be not more frequently than weekly and only if the agreement allows for it to be collected at the premises;
- to carry out or inspect necessary repairs or maintenance at a reasonable time after giving at least 72 hours written notice;
- to inspect the premises and assess any damage, in the event that a tenant has filed a [Notice of termination of tenant's interest in residential tenancy agreement on grounds of family violence](#) (Form 2) or where a co-tenant who is given a copy of a notice to terminate a co-tenant's interest and in turn gives notice to terminate their own interest (see '[Tenants affected by family and domestic violence](#)');
- to show the premises to prospective tenants at a reasonable time in the 21 days before the end of an agreement, after giving you reasonable written notice;

- to show the premises to prospective buyers at a reasonable time and on a reasonable number of occasions, after giving reasonable written notice;
- to inspect and secure abandoned premises after 24 hours' written notice left at the premises and your last known place of employment;
- in any case of emergency; or
- if you consent at the time, or immediately beforehand.

No more than four routine inspections are allowed in any 12-month period (an inspection is not allowed when collecting rent). Routine inspections allow the lessor/agent to note any maintenance required and ensure you are looking after the property. Routine inspections can also help to determine what 'fair wear and tear' is and what 'damage' is.

You have a right to be present whenever the lessor/agent or their contractor wish to access the premises including during home opens and inspections by prospective tenants.

The lessor's/agent's written notice must include the day of entry and must specify whether the entry will be before or after 12.00pm on that day. If the day or time on the notice is unduly inconvenient to you, the lessor/agent must make a reasonable attempt to negotiate an alternative day or time for entry.

Reasonable time is defined as:

- between 8.00am and 6.00pm on a weekday;
- between 9.00am and 5.00pm on a Saturday; or
- at any other time, including Sundays, agreed between the lessor/agent and each tenant.



# When things don't work out

If you have a disagreement over any issues, such as rent payments and inspections, try to sort out the issue amicably (see '[Minimising problems](#)' in '[Once the tenancy begins](#)').

If you and the lessor/agent cannot agree, there are some formal procedures established under the Act that you can use to sort things out. These are covered in this and subsequent sections.

The Act requires formal notices be issued by either party in a rental dispute to deal with a number of important circumstances, such as if you believe there has been a breach of the tenancy agreement.

If you believe the lessor/agent has breached the agreement, you can write a letter or use a [Notice to lessor](#) of breach of agreement (Form 23) and send it to them asking that the breach be remedied as soon as possible. The department recommends you keep a copy of any letters or breach notices you send along with evidence of service of notices, as you may need to provide these details later in court.

Form 23 is available from the department's website. It is important to complete all details, including your name (as the tenant), the lessor's name (not the agent's name), the address of the property, the date the rental agreement was signed and the nature of the breach.

You can seek:

- to have the problem put right;
- an order from the Magistrates Court;
- an end to the tenancy; or
- compensation.

There is a standard procedure for counting off the days specified for various actions and special requirements for serving the notices (see '[All about notices](#)').

## Do you think you are paying too much rent?

The amount of rent charged at the start of a new tenancy is generally controlled by market forces. However, if the lessor/agent increases the rent by what you can demonstrate is an unreasonable amount, you can apply to the [Magistrates Court](#) (usually within 30 days of receiving the increase notice) for a reduction or to argue against a proposed increase.

## If the rent is overdue

If there is a problem paying your rent on time, explain your financial situation to the lessor/agent as soon as possible and make arrangements to pay the outstanding amount in full.

If you are behind in rent payments, lessors/agents can issue formal notices under the Act.

One day after the rent should have been paid, the lessor/agent may issue a [Notice of termination for non-payment of rent](#) (Form 1B). This will warn you that unless you pay the outstanding rent within the next seven days, the rental agreement will be terminated and, if you refuse to leave, they will apply to the Magistrates Court for an order to terminate the tenancy. If a court application is lodged and you pay all rent owing as well as the court application fee no later than one day before the court action, then the action will not proceed and you may stay in the property.

Alternatively, the lessor/agent may issue a [Breach notice for non-payment of rent](#) (Form 21) to advise you are in breach of your tenancy agreement and need to remedy the breach by paying the outstanding rent within 14 days. If you don't pay within 14 days, the lessor/agent can issue a [Notice of termination for non-payment of rent](#) (Form 1A). This seeks to end the tenancy agreement and requires you to leave the premises within the next seven days. If you do not vacate the premises, the lessor/agent may apply to court to terminate the tenancy and regain possession of the premises.



### Important

A lessor/agent cannot seize your belongings instead of the rent you owe.

If you reasonably believe you are not behind in rent payments, you can remain in the premises while you both negotiate or until the lessor/agent applies for an eviction hearing in the Magistrates Court, where both parties can argue their case. You should continue to pay rent.



### Important

A lessor cannot force you out of the property, even if you are behind in rent.

Should you not vacate the property after a valid termination notice has been issued the lessor/agent would need to apply to the court for an eviction order.

## If you breach the agreement (other than not paying rent)

Examples of possible breaches of your rental agreement may include:

- keeping a pet on the premises when this hasn't been agreed to;
- subletting to others if not previously agreed;
- not keeping the property reasonably clean;
- causing damage to the property;
- changing locks without approval other than when necessary to prevent family violence that you suspect is likely to be committed against you or your dependant (see '[Tenants affected by family and domestic violence](#)');)
- causing a nuisance to neighbours;
- failing to water or maintain the garden and lawns;
- using the premises for an illegal purpose; or
- using the premises for business purposes without the lessor/agent's approval.

If you breach the agreement the lessor/agent can apply to the Magistrates Court seeking a court order saying you must fix the problem. Before doing so, they must give you a minimum of 14 full days to rectify the situation by issuing a letter or by using the [Notice to tenant of breach of agreement – \(other than failure to pay rent\)](#) (Form 20).

If you don't put things right within the time, they can issue a [Notice of termination](#) (Form 1C) to end the tenancy after an additional seven days.

Similarly, if you believe a lessor/agent has breached the agreement, you can serve a [Notice to lessor of breach of agreement](#) (Form 23) or write a letter in order to have the breach rectified.

If you cause serious damage to the premises or the lessor/agent believes your behaviour is likely to result in damage to the premises, including common areas and chattels in common areas where relevant, or injury to them personally or any person in occupation of or permitted on adjacent premises, they may apply to the Magistrates Court for an order to end the agreement, without having to first issue a breach notice and/or termination notice.

See also our publication [Department of Communities \(Housing\) tenants](#).





# Ending a tenancy

There are various reasons why a tenancy ends other than disagreements. You may be going to buy your own property or move in with a friend or the lessor may want to move back in or sell the property.

If both you and the lessor/agent agree in writing that the tenancy will end on a certain date, then none of the formal procedures such as issuing notices apply. However, make sure both of you sign a clear, written statement to that effect.

Sometimes premises are destroyed, or compulsorily acquired by law, or become uninhabitable. In this situation you only have to give two full days' written notice to end either a periodic or fixed-term tenancy while the lessor/agent must give you at least seven days' written notice on a [Notice of termination](#) (Form 1C).

If the property is taken by any authority by legal process (such as the mortgage provider or as the result of a court order), the authority may take on the role of 'lessor' and must then comply with the normal rules of the tenancy agreement under the Act. If a mortgagee or person with the superior title takes possession of the property, regardless of whether the tenant is in a fixed or periodic lease, they may give the tenant 30 days' notice to vacate using a [Notice to vacate from mortgagee to tenant](#) (Form 14). For the first 30 days after receiving this notice the tenant is not required to pay rent to stay in the property.

There are rare occasions when a lessor/agent or a tenant applies to the Magistrates Court for the rental agreement to be terminated on the grounds that, if it continues, they would suffer 'undue hardship'. You have the right to argue that you should remain in the property. The magistrate will ultimately make the decision unless you and the lessor/agent are able to reach agreement prior to the court hearing.

Regardless of whether you are in a periodic or fixed-term tenancy, you must give the lessor/agent a forwarding address at the end of your tenancy. To not do so is an offence.

## Ending a periodic tenancy agreement

You may end a periodic tenancy agreement without providing a reason, but you must give the lessor/agent a minimum of 21 full days' written notice.

If the lessor/agent wants you to leave, they must give you a minimum of 60 days' notice using a [Notice of termination](#) (Form 1C).

The exception to the length of notice is if the property is to be sold and the contract involves the property to be vacant at hand over. In this case you must be given a minimum of 30 days' notice, again using Form 1C. Alternatively, the agreement can be ended prior to the required length of notice by mutual written agreement.

## Ending a fixed-term tenancy agreement

Your fixed-term tenancy agreement will not automatically terminate on the expiry date unless prior to the expiry date, either you or the lessor/agent gives the other 30 days' written notice of the termination.

The lessor/agent must use a [Notice of termination](#) (Form 1C) to give the required notice. The tenant may provide a written letter to the lessor/agent as notice. (see [Appendix 3](#)). Alternatively, you may use the [Notice of termination from tenant to lessor](#) (Form 22) available on the department's website.

The written notice should be given at least 30 days before the expiry date on the tenancy agreement. In the event you, the tenant, provide less than 30 days' notice, the tenancy will not end until the end of the notice period. If the lessor/agent provides less than 30 days' notice you can move out any time between the original expiry date on the lease and the end of the 30-day notice period. The lessor/agent can only take possession of the property after the expiration of the fixed-term agreement. See '[Counting days](#)', as extra days will be needed when the notice has not been provided within the required timeframe.

Should the day of possession fall on a weekend or public holiday, you may nominate the following business day as the day to officially vacate the premises.

If however, you and the lessor/agent both provide notice specifying different days, the earliest date is taken to be the possession day.

The tenant must continue to pay rent until the property is surrendered.

If the fixed-term tenancy expires without you or the lessor/agent providing notice, and if the rental payments continue unchanged, the agreement will automatically become a periodic tenancy and the appropriate termination notices will apply.



If you wish to extend the tenancy, contact the lessor/agent about five or six weeks before the expiry date so you can agree on the term of the tenancy to be renewed.

## Ending a fixed-term tenancy early

Unforeseen circumstances may mean you need to terminate the tenancy agreement prior to the expiry date. For example:

- your job requires you to move;
- there is a change in your financial circumstances and you can no longer afford the rent; or
- there is personal or family illness.

In these circumstances you can seek to terminate the fixed-term tenancy agreement prior to the expiry date by reaching a mutual written agreement with the lessor/agent.

First, approach the lessor/agent and explain the situation to seek their understanding and cooperation for negotiating agreeable terms for your early termination.

The lessor/agent may still require you to remain liable for your tenancy under the terms of the tenancy agreement until a new tenant commences their tenancy or your tenancy agreement expires. This liability would include, but may not be limited to, the payment of rent, payment of utilities and maintenance of the property.

The lessor/agent may also seek reimbursement for losses incurred as a result of you terminating the tenancy early, such as advertising costs. However, your lessor is not entitled to be compensated for losses that could have been avoided (for example, lost rent because they unreasonably delayed getting replacement tenants).

If you are not able to reach a mutual agreement with the lessor/agent, you can apply to the Magistrates Court for an order terminating the agreement early.

If you need to end a fixed-term agreement due to being affected by family and domestic violence, you may give the lessor/agent at least seven days' notice and vacate with immediate effect (see '[Tenants affected by family and domestic violence](#)').

## Final inspection

The lessor/agent is entitled to expect that the property will be returned to them in a clean and undamaged condition at the end of your tenancy.

Within 14 days of the conclusion of your tenancy, the lessor/agent must conduct a final inspection of the premises, prepare a final property condition report describing the property's condition, and provide you with a copy of this report.

You must be given a reasonable opportunity to be present at the final inspection. It is in the best interests of both parties to undertake a joint inspection when you move out.

Using the property condition report prepared at the start of the tenancy, compare the condition of each item with the original details and discuss any problems such as breakages, items missing, etc.

If the lessor believes you have not cleaned the property to their reasonable satisfaction, or if minor repairs are needed, you will probably be required to meet the costs involved to fix the problem.

The lessor/agent may decide to repair or clean the property themselves. If so, they may only charge you for out-of-pocket expenses, such as cleaning materials. If professional cleaning, repairs or renovation are required, you will be required to meet reasonable costs.



### Remember:

**You cannot be charged for what is considered 'fair wear and tear'. To help you understand the difference between what is fair wear and tear and neglectful damage, see '[Neglectful damage versus fair wear and tear](#)'.**

A sample letter (at [Appendix 4](#)) is provided for you to use to send to the lessor/agent to notify them of your opinion regarding any deductions to be taken from the bond.

This is also the time to arrange for the return of the keys and access devices. If you don't return keys and access devices, you may have to pay the cost of changing the locks and/or be charged rent until the keys and access devices are returned.

There are frequent disagreements over whether items can be repaired, or are so badly damaged that replacement is necessary.

If the damage can be reasonably repaired, you only have to meet the repair costs.

If there are burns or stains (on a carpet, for example), the lessor/agent must take into account factors such as the age of the carpet, its general condition and the degree of damage. If the damage is so severe the carpet needs to be replaced, then you could be charged the cost of a replacement carpet of similar quality.

If it is agreed to replace with 'new for old', the lessor/agent should allow for depreciation.

Once you and the lessor/agent have calculated and agreed on a reasonable amount of money to deduct from the security bond, complete a [Joint application for disposal of security bond](#) form and both sign it. If the lessor/agent uses [Bonds Online eTransactions](#), they will complete the disposal request electronically. Each tenant will be sent an email containing a link to request a unique access code that will enable them to review the bond information, complete their bank account details for EFT payment and approve (or request a change) to the disposal amount.

The form should show the amount to be returned to you and/or the lessor/agent.

If all or part of the original security bond was paid by the Department of Communities (Housing) any outstanding debt is generally repayable directly to them at the end of the tenancy.

## Evictions

You cannot be forced out of a property without a court order. Any other method of eviction is unlawful under the Act and you should contact the department.

If you receive proper notice to end an agreement but refuse to leave, the lessor/agent can seek a court order to end the agreement and take possession of the premises. If you do not move out by the required date the order can be enforced with a warrant authorising a bailiff to evict you.

If the Magistrates Court makes an order that you must leave, and you believe you are likely to suffer hardship as a result, you can ask the magistrate for the order to be suspended for up to 30 days. That means that you will have 30 days before you have to vacate the premises.

You also have protection under the Act if you believe any action to evict you is due to complaints you have made to a public authority, including the department or other steps you have taken to enforce your rights. In such cases, you can remain in the property until the matter goes to court where you can argue against the ending of the agreement. If you have taken steps to enforce your rights or complained to a public authority within the previous six months it is up to the lessor to prove that they were not partly or wholly motivated to evict you due to your complaint.



### Important:

**The lessor/agent is not permitted to change locks, turn off the electricity, gas or water, or take any other action to force you out of the property, unless authorised by a court order.**

If you believe there has been any unauthorised action to force you to give up possession, contact the department as 'coercion' (undue harassment and/or physical force) is a breach of the ACL and can attract penalties.

## Getting your bond back

At the end of a tenancy, bond money will only be paid out if you and the lessor/agent agree on the disposal, or if either party obtains a court order.

If there is no dispute over the condition of the property, and you and the lessor/agent have agreed how the bond money should be divided, you must both sign or electronically approve a [Joint application for disposal of security bond](#) form and give it to the Bond Administrator.

Forms can be submitted by email to [bondsadmin@dmirs.wa.gov.au](mailto:bondsadmin@dmirs.wa.gov.au) by post or in person at the Mason Bird Building, 303 Sevenoaks Street, Cannington or at one of the department's regional offices. If the lessor/agent uses BondsOnline eTransactions, they will submit the form electronically and you will be sent an email asking you to approve the disposal amounts online.

If there is a disagreement over how the bond money should be paid out, you and the lessor/agent should try to resolve it by negotiation. You can use Sample letter 2 at [Appendix 4](#).

If you have received bond assistance from the Department of Communities (Housing), the [Joint application for disposal of security bond](#) form should show the amount to be returned to you and/or the lessor/agent and/or to be refunded to Housing.

If either you or the lessor/agent refuse to sign or electronically approve the form because you are disputing the amount, either party may apply to the Magistrates Court for a decision on how the funds should be allocated.

Once the application is lodged, the court will send a copy to the other party named in the agreement. Once the document has been issued, the other party has three options:

- to agree to settle the dispute;
- to dispute the application within seven days – the matter will then be set down for hearing in the Magistrates Court; or
- to ignore the notice (the court may then issue an order for the release of the bond after seven days).

If a dispute goes to court, the magistrate or a registrar will make an order as to how the bond money is to be paid out. Remember, going to court doesn't mean you will face high costs (see [Going to court](#)).

It is a requirement under the Act for you to provide the lessor/agent with your forwarding postal or residential address at the end of your tenancy. If you do not provide your address and the lessor/agent applies to the court for the order, the court will not be aware of the address that the hearing details should be sent to and the matter may be heard in your absence.

It is an offence for you to stop paying rent in the last weeks of the tenancy with the intention that the amount owing will be taken out of the bond.

It is an offence for a lessor/agent to ask you to sign a blank [\*Joint application for disposal of security bond\*](#) form or to ask you to sign or electronically approve the form before the tenancy has ended. The form must also clearly specify how much is to be paid to each party.

## Abandoned premises or goods

If you abandon the rental premises, the tenancy agreement may end. The lessor/agent can give written notice stating that if no response is received within 24 hours to confirm that the premises has not been abandoned, they will enter the property for inspection and secure the property. If no response is provided, they can:

- issue a second notice to you advising that they suspect the premises has been abandoned. If you don't respond or dispute the notice within seven days, the tenancy agreement will be terminated; or
- apply to the Magistrates Court for an order declaring the premises has been abandoned.

The lessor/agent must ensure the property has been abandoned. You should always notify the lessor/agent if you plan on being away from the premises for an extended period of time and make appropriate arrangements to pay your rent and care for the property while you're away.

The lessor/agent cannot seize your goods or property as compensation for any unpaid rent.

If you leave your belongings behind the lessor/agent should take action under the Act to store, sell or dispose of the goods.

If the goods are of little or no value, the lessor/agent can dispose of the goods.

If there are items of some value, the lessor/agent must store them for at least 60 days and notify you in writing and in person, within seven days that the items have been placed in storage. Should you wish to reclaim your goods before they are sold, you will need to reimburse the lessor the reasonable fees associated with the removal and storage of the goods.

If you have provided your forwarding address, the notice can be provided by post. Alternatively, the notice may be provided by phone, via the internet, or any other method that has been agreed upon by both parties. If you have not left a forwarding address the notice can be made publicly available on a website or in a newspaper with state-wide circulation or posted on the rental premises. If the lessor/agent disposes of your goods and you disagree with this decision, you can seek compensation from the lessor by applying to the courts for an order stating the lessor acted inappropriately.

## Abandoned documents

If you leave behind important documents including electronic documents, the lessor/agent is required to take reasonable care of these for 60 days and take reasonable steps to notify you from where you can collect the documents.

Examples of important documents that should be stored would include an official document, a photograph, correspondence, a computer or any other document or document storage device a reasonable person would be expected to keep.

If you collect the documents/document storage device, you must reimburse the lessor/agent for any reasonable costs incurred for storing them.

Remember, the lessor/agent may destroy the documents after 60 days, so it is in your best interests not to leave documents behind.

## Right of lessor/agent to compensation

A lessor can seek compensation from you for any loss, including rent, by applying to the Magistrates Court, but they must still take all reasonable steps to minimise any losses.



# Tenants affected by family and domestic violence

In April 2019 the Act changed to provide options for tenants affected by family and domestic violence (FDV) including a process to terminate a tenancy quickly and legally; the ability to remove the perpetrator from the agreement; the ability to change locks without permission; and the right to improve security.

## What is family and domestic violence?

FDV is a crime. It is behaviour that results in physical, sexual and/or psychological damage, forced isolation, economic deprivation, or causes the victim(s) to live in fear. It can be experienced by people of all classes, religions, ethnicity, ages, abilities and sexual orientation.

Examples of criminal offences in FDV situations include assault, sexual assault, making threats to a person's safety, stalking, damaging or stealing property, harming a person's pet and breaching restraining orders.

In many cases, the affected tenant(s) and the perpetrator may live together, however the perpetrator does not have to be living in the same house for the situation to qualify as FDV.

## When you want or need to break the tenancy agreement due to FDV

If you or your dependant have been affected by FDV during the tenancy you can give the lessor/agent at least seven days' notice that you want or need to break your interest in the agreement (fixed-term or periodic) and vacate with immediate effect. You must provide the lessor/agent with a [Notice of termination of tenant's interest in residential tenancy agreement on grounds of family violence](#) (Form 2) and one of the following:

- a domestic violence order;
- a family court injunction or an application for a family court injunction;
- a copy of a prosecution notice or an indictment detailing a charge relating to family violence having been committed against you or a court record of a conviction of the charge; or

- an official [Consumer Protection family violence report – evidence form](#) signed by a designated professional who can be:
  - 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 organization.

The lessor/agent cannot challenge your request to break the agreement if the notice and supporting evidence have been completed properly and provided with at least seven days' notice. If the documents are not completed properly the lessor/agent can apply to a court to review whether the termination notice was validly given.

## If there are co-tenants on the tenancy agreement

If you issue a [Notice of termination of tenant's interest in residential tenancy agreement on grounds of family violence](#) (Form 2) the lessor/agent must provide a copy of the Form 2 to any co-tenants (they must NOT provide any of the supporting evidence to the co-tenants), and give them seven days to decide if they want to continue with the tenancy agreement.

If a co-tenant wants to stay, the lessor/agent must let the lease continue. If the co-tenant decides to leave, they must give the lessor/agent 21 days' notice within seven days after receiving a copy of the notice.

The lessor/agent is required to keep any FDV evidence (e.g. [Consumer Protection family violence report – evidence form](#), copy of restraining order, family court order) you provide in a safe and secure manner. If they disclose the details, for example to a co-tenant, the lessor/agent can be prosecuted.

Please note, if the alleged perpetrator is a co-tenant, the lessor/agent cannot make them leave if you leave. If an alleged perpetrator wants to remain in the tenancy, the lease continues.



**Important:**

If the alleged perpetrator is a co-tenant, you may need to consider having a safety or exit plan in place before issuing a [Notice of termination of tenant's interest in residential tenancy agreement on grounds of family violence](#) (Form 2). As the lessor/agent is obligated to give a copy of the form to any co-tenants, the perpetrator would become aware of your intention.

**If you want to stay and remove the perpetrator from the agreement**

If a perpetrator is named on the tenancy agreement and you want to stay, you can apply to the court to have the perpetrator removed from the agreement. The lessor/agent and any co-tenants will find out about this hearing via a notice from the court.

**Dealing with debt and liability**

In the case of damage to the premises or unpaid rent because of FDV the magistrate can assign liability to the perpetrator. Either a vacating or remaining tenant will need to apply for this court order. If there is no court order, all tenants remain jointly liable for any damages and or debt.

This provision can only be used if a tenant's interest in the tenancy has been terminated due to FDV circumstances.

The court can also make an order to pay out some of the security bond to:

- any tenant who is leaving the tenancy, if they don't owe the lessor/agent any money; and/or
- the lessor/agent if they are owed money for any damages and debt.

If part of the security bond is paid out and the tenancy is ongoing, the lessor/agent will be entitled to ask the remaining tenant(s) to top up the security bond to the maximum amount permitted under the Act.

**Changing the locks without permission**

You can change the locks without first seeking the lessor's permission either:

- after a perpetrator's interest in the tenancy agreement has been terminated; or
- if it is necessary to prevent family and domestic violence that you suspect is likely to be committed against you or your dependant.

You must give the lessor/agent a copy of the new key(s) within seven days unless the lessor/agent is the alleged perpetrator. The lessor/agent is prohibited from giving a copy of the key(s) to anyone that you specifically instruct them in writing not to.

**Making security upgrades without permission**

You can make prescribed security upgrades to the premises without a lessor's permission:

- after a perpetrator's interest in a tenancy agreement is terminated; or
- if necessary to prevent family and domestic violence that you suspect is likely to be committed against you or your dependant.

You must inform the lessor/agent about your intention to make the security upgrades, which must be installed by a qualified tradesperson. You are responsible for any associated costs and must supply a copy of any invoice to the lessor/agent.

All upgrades should comply with strata by-laws and take into consideration the age and character of the property. If the lessor/agent asks you to restore the premises to original condition at the end of the tenancy, you are required to do so.

Further information about the tenancy laws regarding FDV can be located at: [www.safetenancy.wa.gov.au](http://www.safetenancy.wa.gov.au)

If you want to use the tenancy laws to leave a tenancy for FDV reasons, contact Consumer Protection on 1300 30 40 54 or your local [Community Legal Centre](#) for help.





# All about notices

## What to issue

If either you or the lessor/agent believes parts of the tenancy agreement or the Act have not been met, notices can be sent by either party, highlighting the problem and giving a time limit for making changes.

Only issue a notice after you have tried to solve the problem or dispute with the lessor/agent.

When a notice is served under the Act proper procedures must be observed. If the matter in question ends up in court, the person who prepared the required notice may have to prove it was served (given to the other party) correctly.

## Forms you may issue

The following forms should be used.

[Request to lessor to affix furniture](#) (Form 24)

Form 24 is for a tenant to give to a lessor/agent to request permission to affix furniture to a wall in the rental property for the purpose of ensuring the safety of a child or a person with a disability. The lessor/agent has 14 days to respond. If they do not respond within the 14 days you may affix the furniture.

[Notice to lessor of breach of agreement](#) (Form 23)

A Form 23 is issued to the lessor if you believe they have not kept to their part of the tenancy agreement or the Act.

You can also simply write to them stating the problem (such as the premises is not maintained in good repair or your right to quiet enjoyment has not been observed) and call on them to remedy the breach as soon as possible. Keep a copy for your records.

If they don't fix the problem, you can apply for an order from the Magistrates Court for the work to be carried out, or seek assistance from the department. In some circumstances, you can arrange for urgent repairs yourself and be reimbursed by the lessor (see '[Urgent repairs](#)').

You can't hold back the rent to try to make the lessor fix the problem, as that would place you in breach of the agreement and they could apply to have it ended. If the problem is covered by council by-laws, building, health and electricity, gas, or any other utility provider's regulations, you should get advice from the relevant authority.

In the case of fixed-term agreements, if the lessor/agent breaches a fixed-term tenancy and refuses to correct the problem, the tenancy can be ended by agreement or by an order from the Magistrates Court.

[Notice of termination from tenant to lessor](#) (Form 22)

A Form 22 can be used to inform the lessor/agent of your intention to:

- end a periodic lease (minimum 21 days' notice);
- end a fixed lease on the expiry date (minimum 30 days' notice);
- give a minimum two days' notice if the rental premises is destroyed or becomes uninhabitable;
- for a co-tenant to give a minimum 21 days' notice to leave after receiving [Notice of Termination of Tenants Interest in Residential Agreement on Grounds of Family Violence](#) (Form 2).

Alternatively you may simply write a letter to the lessor/agent of your intention to move out and the date on which the property will be returned to the lessor/agent. Be sure to keep a copy for your records.

[Consumer Protection family violence report – evidence form](#)

The evidence form is one of several options used to provide the required evidence of family violence when submitting a [Notice of termination of tenant's interest in residential tenancy agreement on grounds of family violence](#) (Form 2).

[Notice of termination of tenant's interest in residential tenancy agreement on grounds of family violence](#) (Form 2)

This Form 2 is issued to the lessor/agent in order to give seven days' notice that you want or need to end the tenancy agreement and vacate with immediate effect. At the same time you must present a document meeting specific evidence requirements (see '[Tenants affected by family and domestic violence](#)').

## Forms the lessor/agent may issue

There are also a number of notices and forms that lessors/agents can use to deal with issues. Some of these forms are required under the Act.

[Notice of proposed entry to premises](#) (Form 19) – Required

If your lessor/agent intends to inspect the premises they must give you seven to 14 days' notice. They must include details such as the time (either before or after 12.00pm, as a minimum), date and reason for entering on a Form 19.

A Form 19 summarises the circumstances in which the lessor/agent may enter the premises and is now a required form. The lessor/agent cannot just write a letter.

[Notice to tenant of breach of agreement \(other than failure to pay rent\)](#) (Form 20)

If your lessor/agent believes you have breached the agreement by a means other than by not paying the rent (such as damage to the property, gardens not maintained etc.), they can use a Form 20 or simply write you a letter with the necessary details.

If you fail to resolve the problem, the lessor/agent can apply for a court order to ensure you do so, or issue a Form 1C to end the agreement.

#### [Breach notice for non-payment of rent](#) (Form 21)

If your lessor/agent believes you have breached the agreement by not paying the rent or by paying the rent late, they may use a Form 21 or a letter. This requires you to bring the rent up to date within 14 days.

#### [Notice of termination for non-payment of rent](#) (Form 1A) – Required

A Form 1A is used if the outstanding rent is not paid within the 14 days under the breach notice. It seeks to end the tenancy agreement and requires you to vacate the premises within the next seven days and can only be used if you have first received a [Breach notice for non-payment of rent](#) (Form 21).

#### [Notice of termination for non-payment of rent](#) (Form 1B) – Required (no breach notice issued)

A Form 1B can be sent one day after the rent should have been paid. It warns you that, unless the outstanding rent is paid within the next seven days, the agreement will be terminated and, should you refuse to leave, the matter will be taken to Court. It can only be used if a [Breach notice for non-payment of rent](#) (Form 21) has not been given.

If you pay all the rent owing (and court fees) no later than one day before the court action, the action will not proceed.

#### [Notice of termination](#) (Form 1C) – Required

If your lessor/agent wants to end the tenancy for any reason other than you failing to pay the rent they can use a Form 1C and specify the reason. The reverse of the form explains the grounds on which a tenancy can be ended and the periods of notice that must be given.

#### [Magistrates Court's Application to the court](#) (Form 12) – Required

If your lessor/agent wants to terminate the tenancy immediately they can use a Form 12 to get an urgent hearing. This is a Magistrates Court form.

#### [Notice to former tenant as to disposal of goods](#) (Form CP2) and [Notice as to disposal of goods](#) (Form 3) – Required

If you abandon goods of a high value and the lessor/agent wants to dispose of them they must use forms to inform you of their intentions.



#### **Important:**

Notices and forms can be confusing, but our staff can help you with any queries or concerns about the types of notices required under a tenancy agreement. You can visit one of our offices or phone the Consumer Protection Contact Centre on 1300 30 40 54.

## How to serve a notice

Under the Act you generally can serve a notice by hand delivering it to a person (as listed below), emailing (see '[Serving notices electronically](#)') or mailing it by ordinary post. The Act says serving a notice by mail takes effect from the time the letter would have been delivered by ordinary post.

If you are giving a notice to the lessor, you can give it to:

- the lessor;
- the lessor's agent;
- a person (who looks to be over 16) who lives with the lessor; or
- the person who usually receives the rent.

Where there are two or more lessors, you only need to give a notice to one of them (although the notice should refer to all of the parties to the agreement).

Any notice given to a person whose address is not known is regarded as having 'been served' if a copy of the notice is published in a daily newspaper which circulates generally throughout the State.

## Serving notices electronically

It is the department's view that notices under the Act may be served by email as long as the notice does not require a witness signature, both parties have previously agreed they will correspond electronically, and it is reasonable to expect the information will be accessible and available at a later date.

If you have agreed to serve or receive notices electronically, you should keep a copy of that agreement in writing. This may have been included in the residential tenancy agreement.

However, to ensure a notice is being received by the intended recipient and to avoid any dispute about whether it is received, you are advised to serve the notice personally or by mail.

## Counting days

If you are serving a notice, you will find that certain periods of notice are required for certain actions.

When you count the days for the notice period, you must exclude the day on which the notice is served, as well as the last day of the notice period. This means that the action should take place on the day following the last day of the notice period.

If you mail a notice, allow adequate time for the letter to reach the recipient by regular post. Allow five business days for delivery within the metropolitan area and more than that (up to seven business days) between regions. Australia Post now offers a priority option which costs more but delivers mail one or two business days faster than regular post.

Weekends and public holidays need to be taken into account and should be excluded if the last day for the notice falls on a weekend or public holiday. This means, the person receiving the notice can choose for service to be effected on the next working day after the weekend or public holiday.

Notices do not necessarily have to coincide with rental payment periods.

## Proof a notice was served

If a tenancy issue goes to court, the magistrate is likely to require proof that the notice was served correctly. Therefore, it is important to keep copies of each notice including a written record of the method you used to serve it and the date it was sent or handed to the person. The person who sends the notice should also sign these notations.

## Other forms that may affect you

[Information for tenant](#) (Form 1AC)

At the time of entering into a written residential tenancy agreement on a Form 1AA your lessor/agent must provide you with a Form 1AC.

[Information for tenants with non-written residential tenancy agreement](#) (Form 1AD)

If you have a verbal tenancy agreement (such as between family members) your lessor/agent must give you a Form 1AD within 14 days of you moving in.

[Lodgement of security bond money](#) form

As the name suggests the *Lodgement of security bond money* form is used to lodge bond money with the Bond Administrator.

[Joint application for disposal of security bond](#) form

Similarly, the *Joint application for disposal of security bond* form is used at the end of the tenancy to return your bond money to you, the Department of Communities (Housing) and/or the lessor.

Sometimes when a tenancy comes to an end it is not possible for both parties to reach an agreement over how the bond money should be paid out. When this happens you can make an application to the Magistrates Court for orders to recover the bond. The required forms are automatically filled out during the online application process, or can be obtained from the Magistrates Court (see '[Going to Court](#)').

[Variation of security bond](#) form

This is used by lessors/agents when ownership or management (by an agent) of the rented property changes. It can be used to make changes to the record of bond payment details and for changes to tenant details.

[Residential tenancy agreement](#) (Form 1AA)

A prescribed agreement must be used for all written residential tenancy agreements.

[Property condition report](#) (Form 1)

This is a report that must be prepared at the start and the end of the tenancy showing the contents of the premises and their condition. This form is required to be used but additional information can be added.



### Note:

Click on the links provided to download the notices and forms free from the [Consumer Protection](#) website.

## Helpful advice about bonds

BondsOnline has allowed licensed real estate agents and other organisations that manage a significant property portfolio to:

- view records and access reports for security bonds held by the Bond Administrator;
- create and print bond transaction forms; and
- use eTransactions to lodge, vary and initiate disposals of security bonds online (real estate industry only).

Additional information about tenancy bonds is available on the [department's website](#).

# Tenancy databases

Tenancy databases may be used by lessors/agents as a way of screening prospective tenants.

The Act sets out who, when, and why a person can be listed. It also enables disputes over proposed and existing listings to be resolved.

If you believe a lessor/agent or tenancy database operator has listed information about you that is incorrect, out of date or unjust, you may be able to have the information removed or amended.

## What is a tenancy database?

Tenancy databases are run by private companies, not by the government. They collect and hold information about tenants and can only be used by members (usually real estate agencies) who pay membership fees.

Members can list tenants on the database for certain reasons and can check the database to see if a prospective tenant has been listed by another member. There are a number of tenancy databases which operate, including:

- TICA (Tenancy Information Centre of Australia) [www.tica.com.au](http://www.tica.com.au)
- NTD (National Tenancy Database) [www.equifax.com.au](http://www.equifax.com.au)

Tenancy databases are sometimes referred to as 'blacklists' or 'bad tenant databases'.

Files kept by an individual lessor/agent or agency for their own internal use (hard copy or computerised) are not databases for the purposes of the legislation.

## When can I be listed on a database?

If your tenancy has ended, you cannot be listed on a database simply because you fall behind with the rent, or aren't looking after the property in a satisfactory way. You can only be listed on a database if you are named on the tenancy agreement as a tenant (approved or unapproved occupants, visitors or children cannot be listed) and:

- the tenancy has ended and you owe the lessor more than your security bond and the amount owed is still outstanding at the time of listing; or
- a court has made an order terminating your agreement because of something you have done wrong.

Any information recorded on a database must identify the reason for the listing in an accurate, complete and unambiguous way and can only relate to the breach. For example, 'eviction order given on grounds of rent arrears, tenant owes \$500 in rent above the bond'.

It is unjust to list a person on a tenancy database if the reason for the listing arises out of them being subjected or exposed to FDV (see '[Tenants affected by family and domestic violence](#)').

You cannot be listed on a database if you fell behind in your rent during the emergency period (30 March 2020 to 28 March 2021) due to financial hardship caused by the economic impact of the coronavirus (COVID-19) pandemic.

## How will I know if I have been listed on a database?

Lessor must advise you in writing if they propose to list you on a tenancy database. They must also give you:

- details of the proposed listing, or take reasonable steps to try to advise you. They can do this by sending a letter to your new address (if known) or to the address of the rented premises (in case you are having your mail redirected); and
- at least 14 days to object to the information to be listed before listing you on the database.

If you object to either the listing or the information to be provided, the lessor/agent must consider your objection.

If you apply for a tenancy and the lessor/agent discovers you have been listed on a database, they must advise you in writing. They should inform you of the contact details of the person who has listed you, how you can find out what the listing says and how to have it corrected or amended if it is incorrect.

They do not have to advise you of the reason for the listing. You are entitled to a copy of that information from the person who listed you (free of charge) or directly from the database operator. The database operator can charge you a fee for the information but it must not be excessive.

Some database operators also provide information over the phone, but charges may apply.



### **Removal of out-of-date, incorrect or unjust listings**

Listings must be removed from a database if:

- they are older than three years;
- less than three years old and out of date; or
- if the person was under 18 when they were listed, the listing must be removed when they turn 18.

Listings also need to be amended if the information is inaccurate, incomplete or ambiguous and relates to anything other than the breach.

You can also seek to have your name removed from a tenancy database if you think the listing was unjust.

Upon becoming aware information in a tenancy database is inaccurate, incomplete or out of date, the lessor/agent must notify the database operator of the issue and how to correct it in writing within seven days. The operator then has 14 days to make the amendments.

Examples of out of date listings are where:

- you owed more money than your security bond would cover but you repaid it to the lessor within three months; or
- a termination order was made by the court but not enforced.

### **Disputes**

Always try to resolve any disagreement with the lessor/agent through negotiation. If you cannot resolve the matter you can apply to the Magistrates Court to have incorrect, out of date or unjust listings removed.

The court can order information about you in the database to be:

- taken out entirely;
- partly removed;
- changed; or
- not listed at all if it was a proposed listing.



# Going to court

If disputes about rental property issues cannot be resolved privately or by using Consumer Protection's free conciliation service, you may need to apply for an order from the Magistrates Court of Western Australia (Magistrates Court).

It is important for all parties to keep detailed records throughout a tenancy.

## What to expect

The most common disputes that go to court include:

- disputes about the return of bond money at the end of a tenancy;
- overdue rent;
- damage to property;
- maintenance of the premises; and
- problems when ending tenancy agreements.

Disputes between lessors and tenants are dealt with under a special minor case category for disputes of not more than \$10,000.

Proceedings are generally private and informal so a tenant or lessor can represent themselves. The court will almost always try to resolve the issue with a registrar before the case goes to trial before a magistrate.

## Common Magistrates Court terms:

**Case:** A dispute between two or more parties/people, which may be resolved by the court.

**Applicant/Claimant:** The person who applied for the court order.

**Defendant/Respondent:** The person responding to the claims of the applicant.

**Hearing:** A meeting of all the parties in court with a magistrate. The facts of the dispute are heard and decisions are made for the next steps of the dispute or to finalise the dispute.

**Party:** One of the participants in the dispute/case. For tenancy disputes the parties are generally the lessor and/or the tenant.

**Pre-trial Conference:** Sometimes called a conciliation conference, mediation or negotiation, a confidential meeting to try and settle the dispute with the assistance of a registrar instead of going to trial.

**Registrar:** A court official who is not a magistrate but can make orders.

**Trial:** Formal legal proceedings before a magistrate. A dispute will not always go to trial.

**Proceedings:** Something that happens in court. Could be a conference or a trial.

## Helpful resources if you are going to court:

- [Tips for going to court \(Legal Aid WA\)](#) including expected conduct in court.
- [A list of Magistrates Court fees.](#)
- [A Magistrates Court fact sheet on understanding civil proceedings \(including residential tenancy claims\).](#)
- [Appendix 10: Going to court – Residential tenancy disputes.](#)

## Applying for a court order

All applications to the Magistrates Court must be made online using the Electronic Document Lodgement Service. Supporting documents must also be submitted electronically before the court date via the [eCourts](#) Portal (eCourts). An exemption to this rule can sometimes be obtained by contacting the Magistrates Court.

When applying online, the information you provide will be used to determine the appropriate form for the dispute type, either:

- Form 6 – Application for disposal of bond money; or
- Form 12 – Application for court order.

During the application process you may be asked to enter the bond reference number and party details. You can find these on your bond lodgement certificate. If you do not have your lodgement certificate, email [bondsadmin@dmirs.wa.gov.au](mailto:bondsadmin@dmirs.wa.gov.au) to request a copy.

The magistrate will only consider the issues listed in the application, so give clear and concise details of the issues and orders being sought (for example: an order for an appliance to be repaired and the period and value of any rent deduction sought). Failure to do so may mean the proceedings may be put off until another time.

The lessor can seek to be represented by the agent who manages the rental property.

Both tenants and lessors are entitled to be represented by a person employed or engaged by a not-for-profit organisation. This could be a disability support worker or other advocate. To have representation you must lodge an [Authorisation for an agent to present a party's case](#) (Form 24) (residential tenancies forms) via eCourts **before** the date of the hearing. The representative must have sufficient knowledge of the issue and authority to act on your behalf.

### Date and location

The case will generally be heard at the Magistrates Court that is nearest to the rental premises. A list of court locations and contacts is available on the [Magistrates Court website](#).

The setting of the hearing date depends on whether it is a Form 6 or Form 12 matter.

- Form 6: a date is set if the matter is to be disputed by the other party. If the application is not disputed the court can make the orders in the application in the absence of all parties.
- Form 12: a date is chosen during the application process from 14 days or if this is not possible as soon as possible after the application is made.

### How to prepare

You should understand the section(s) of the Act your case relates to. You should read the Act or seek general advice from the department. You can obtain legal advice from a [Community Legal Centre](#).

Dedicate sufficient time to the preparation of evidence. Lodge your evidence through eCourts as 'supporting documents' after you apply and before your court date. Only lodge what is relevant to the claims in your application and make sure the documents are labelled accurately.

Evidence might include:

- a rent ledger showing dates of rent payments and which periods each payment covered (preferred over receipts and bank statements alone);
- served notices and evidence of the service of the notice (such as the email it was attached to);
- the tenancy agreement;
- property condition reports;
- bond lodgement certificate and any other bonds forms;
- general correspondence including emails, texts or instant messages.

Bring copies of evidence to court for your own reference, or a laptop or tablet that you can use to access copies. Ensure everything is sorted properly for ease of use. Before you attend court, make an orderly list of the points you need to make. Any evidence that is digital but cannot be uploaded through eCourts may be provided on a USB stick. You will need to complete a security declaration prior to the hearing, available at the registry of the Magistrates Court.

If you are unable to attend the court proceedings for strong personal reasons, such as illness or being interstate/overseas, or if you can't represent yourself, the court can appoint an appropriate person to represent or assist you. This can happen as long as the other party will not be disadvantaged by the representation.

Whether you win or lose in court may depend on whether you followed the correct procedures in handling the dispute from the beginning to the court stage, and how thorough you are in preparing your evidence.

### On the court day

For an overview of the whole court process, see [Appendix 10: Going to court – Residential tenancy disputes](#).

Arrive for court before the listed hearing time. Let the court orderly located in the courtroom know you are there and follow their direction for where you are to wait. A hearing can proceed without you if you do not show up or if the orderly does not know you are there.

There may be other matters listed at the same time as your hearing, so you may need to be patient and account for extra time.

If only one party is present, the matters may proceed in the absence of the other party.

Although proceedings in the Magistrates Court are relatively informal, [certain rules must be observed](#).

The court will likely attempt to manage your case through a [pre-trial conference](#) with a registrar instead of going straight to trial. If the matter is likely to be settled in this way, it is important to be aware that any settlement reached is final and binding on both parties.

The court will send you a copy of any orders made after the conference.

Generally the court will not award costs apart from the fee required to start an application.

An order made by a registrar can be appealed using either:

- [Application to vary or set aside order](#) (Form 16) (residential tenancies forms) if a party was absent when the order was made; or
- [Appeal against registrar's decision](#) (Form 1B) (Magistrates Court (General) Rules 2005 forms) if the party was present when the order was made.

Witnesses are not required for hearings other than trial hearings.

### If the case is listed for trial

If the case is listed for trial, the magistrate or registrar will make programming orders beforehand. Programming orders indicate what you need to do to prepare for trial, such as writing and filing a witness statement. Failure to comply with any programming orders may prevent you from presenting your evidence.

Before trial, the magistrate may try again to settle the matter by reaching an agreement.

You can use this checklist to help prepare yourself for trial:

- Do I have a copy of the tenancy agreement?
- Was the bond lodged correctly?
- Have I kept records of the rent I have paid and the date of the last payment?
- Did I receive receipts for rent paid, and are they in order for quick reference by the magistrate?
- If the rent was paid directly into a bank account, do I have the appropriate statements?
- Have I arranged for witnesses to appear at the hearing (if required)?
- Have I gone through my evidence thoroughly?

Orders handed down by the magistrate can include:

- ending a tenancy agreement;
- how bond money will be paid out;
- an action to be carried out in accordance with the tenancy agreement;
- stopping any action which breaches the tenancy agreement;
- payment of compensation by the person in breach of the agreement, for loss or injury (other than personal injury), caused by the breach;
- a reduction in rent payments for a period of time; and
- payment of rent into the court until the lessor carries out the magistrates order to remedy a breach or for compensation.

There are no appeals against the decision of the magistrate, except on the grounds the court did not have jurisdiction to hear the case or natural justice was denied (such as if you can show you weren't given the opportunity to state your case).

If an order to end a tenancy agreement is granted and you can show that you would suffer hardship if it was to take effect immediately, you can ask the magistrate to suspend the order for up to 30 days.

If a party does not pay an amount ordered by the magistrate, you can take action to enforce the order. See the publication [If they don't pay – What happens if court/tribunal orders are not paid?](#)

The successful party has the right to recoup court fees paid.

You can seek legal advice through a lawyer, [Legal Aid](#), [Circle Green Community Legal](#) (formerly Tenancy WA) or at any other [Community Legal Centre](#), though certain conditions will apply.



# Appendices

## Appendix 1

### Glossary of terms in common use

**Agent:** An agent may include a representative of a lessor or a person who is licensed under the *Real Estate and Business Agents Act 1978* as a property manager.

**Assign the premises:** To transfer rights to occupy the premises and associated responsibilities to another person.

**Bond:** Money paid by the tenant which must be held in trust by the Bond Administrator as security against damage to the premises.

**Breach of agreement:** The breaking of a term or condition of the tenancy agreement. In other words, doing something the agreement or standard terms of the Act says the lessor or tenant should not do, or failing to do something the agreement or standard terms of the Act require the lessor or tenant to do.

**Chattels:** Goods belonging to the lessor forming part of the rental premises and the tenancy agreement.

**Common area:** An area that is accessible to, or provided for the common use of, all tenants and residents.

**Counting days:** The time for notices which includes additional days for mailing and the exclusion of the first and last days of the notice period.

**Fair wear and tear:** General terms for anything that occurs through ordinary use. Wilful and intentional damage, or negligence, is not fair wear and tear.

**Family violence / Family and domestic violence (FDV):** A reference to violence, or a threat of violence, by a person towards a family member of the person; or any other behaviour by the person that coerces or controls the family member or causes the member to be fearful.

**Fixed-term tenancy:** A tenancy agreement that specifies a set period of tenancy.

**Head tenant:** A tenant who sub-lets to another person (who is known as a 'sub-tenant').

**Landlord/Lessor:** A person who grants the right to occupy the property and who is entitled to collect rent. This can be the owner or their agent, and in some circumstances the 'head tenant'.

**Mortgagee:** A bank or money lender holding security over the property comprising the rental premises.

**Option fee:** A fee charged to the prospective tenant when lodging a rental application. Option fees are capped.

**Periodic tenancy:** A tenancy agreement that doesn't specify a fixed end date to the tenancy.

**Possession day:** The day by which the tenant needs to have moved out and often referred to as the vacate date.

**Premises:** A general term for a residence. It can mean a house, duplex, unit, flat, apartment or caravan site, caravan or park home and can include the land on which the premises are situated.

**Prescribed form:** Is the approved, standard form or document a lessor must use.

**Property:** In relation to rental properties, this includes the building, garden and any sheds etc.

**Property condition report:** A compulsory form listing the contents of the property and their condition, as well as the condition of the fixed parts of the property such as walls, ceilings and doors. The content of the report is prescribed, but more detail can be added.

**Quiet enjoyment:** The right of the tenant to be able to occupy, use and enjoy the premises in reasonable privacy and without undue interference.

**Rent:** The money the tenant pays the lessor for the right to live in the premises.

**Security bond:** See 'Bond'.

**Sub-let:** A rental arrangement where the tenant, acting as the head tenant, rents out all or a part of the premises to another person.

**Sub-tenant:** The tenant in a sub-let arrangement, who pays rent to the 'head tenant'.

**Tenancy bond:** See 'Bond'.

**Tenant:** The person who rents the premises from the lessor.

**Termination of a tenancy:** When the lessor, the tenant or the court ends a tenancy by:

- a. agreement;
- b. the provisions of the *Residential Tenancies Act 1987*; or
- c. a court order.



## Appendix 2

### Contact details

Department of Mines, Industry Regulation and Safety, see the last page of this guide for metropolitan, regional and electronic contact details.

Community Legal Centres – to obtain the details of the centre nearest to you please visit [www.communitylegalwa.org.au](http://www.communitylegalwa.org.au) or call (08) 9221 9322.

### Magistrates Courts

General enquiries 9425 2222

### Metropolitan

Armadale Court	9399 0700
Fremantle Court	9431 0300
Joondalup Court	9400 0700
Mandurah Court	9583 1100
Midland Court	9250 0200
Perth Court	9425 2222
Rockingham Court	9599 5100

### Regional

Albany Court	9845 5200
Broome Court	9192 1137
Bunbury Court	9781 4200
Busselton Court	9754 9666
Carnarvon Court	9941 5500
Christmas Island Court	9164 7901
Cocos (Keeling) Islands Court	9162 6600
Collie Court	9734 2061
Derby Court	9191 1406
Esperance Court	9071 2444
Geraldton Court	9921 3722
Kalgoorlie Court	9093 5300
Karratha Court	9185 2922
Katanning Court	9821 1177
Kununurra Court	9166 7100
Manjimup Court	9771 1316
Merredin Court	9041 5266
Moora Court	9651 1407
Narrogin Court	9881 1722
Northam Court	9622 1035
South Hedland Court	9172 9300





## Appendix 3

### Sample letter 1

From tenant to lessor/agent giving 30 days' notice of termination of a fixed-term tenancy (or use [Notice of termination from tenant to lessor](#) (Form 22) available on the department's website).

(The lessor/agent's address/email address)  
(telephone contact)

Dear Lessor/agent's name

**Re: Termination of Tenancy agreement for (address)**

As you would be aware, my fixed-term tenancy agreement is due to expire on (date).

**Note:** Choose Option 1 if you have given 30 days' notice before the expiry of the fixed-term period or Option 2 if there are less than 30 days to the end of the fixed-term period.

#### Option 1

The purpose of this letter is to give you notice of my intention to vacate on that day.

#### Option 2

The purpose of this letter is to give you 30 days' notice of my intention to vacate the premises on *(ensure date is 30 days after the day on which the letter would be received by the lessor)*.

I would also like to begin the necessary steps for the return of my bond money. Please can we arrange a suitable time for both of us to inspect the premises.

Subject to the satisfactory completion of the inspection at the end of the tenancy, I request we both sign the Joint application for disposal of security bond form, to provide for the payment of my bond. This form should show the amount to be returned to me and whether any money is required to be paid to you.

Yours sincerely

(tenant)

(date)



#### Note:

The date of service must be before the last day of the fixed-term tenancy. See 'Counting days' in 'All about notices' to ensure you provide sufficient time.

## Appendix 4

### Sample letter 2

From tenant to lessor/agent seeking return of bond (premises inspected: bond money not returned).

(The lessor/agent's address/email address)  
(telephone contact)

Dear Lessor/agent's name

**Re: Refund of bond money**

After a joint inspection of the premises at (address of rental property) on (date of inspection), there is a disagreement over the return of my bond money.

You have indicated that \$(amount) should be deducted from my bond as payment for (list deductions).

**Option 1**

I believe deductions of \$(amount) for (list deductions) are fair because (give reasons).

**Option 2**

I disagree with your deductions because (give reasons).

I would like to arrange for both of us to sign a Joint application for disposal of security bond form, to provide for the release of my bond money.

If I do not receive a written response within seven days I will seek a hearing in the Magistrates Court to settle the matter.

Yours sincerely

(tenant)  
(date)

## Appendix 5

### Standard forms for use under the *Residential Tenancies Act 1987*

The following is a list of the standard forms in common use.

You can download these forms from the department's website at [www.commerce.wa.gov.au/renting](http://www.commerce.wa.gov.au/renting). If you do not have internet access public libraries and community resource centres often offer free or low-cost access, or you can call the Consumer Protection Contact Centre on 1300 30 40 54 for advice.

#### **Prescribed and approved forms (must be used and must not be amended)**

Residential tenancy agreement (Form 1AA)

Information for tenant (Form 1AC)

Information for tenant with non-written residential tenancy agreements (Form 1AD)

Property condition report (Form 1) (Note: This is the minimum content that must be provided but additional detail can be added)

Notice of termination for non-payment of rent (to be used only if a 14-day breach notice has been issued) (Form 1A)

Notice of termination for non-payment of rent (to be used if no breach notice has been issued) (Form 1B)

Notice of termination (not to be used for non-payment of rent – termination for one of seven grounds, other than non-payment of rent) (Form 1C)

Notice of termination of tenant's interest in residential tenancy agreement on grounds of family violence (Form 2)

Notice to former tenant as to disposal of goods (Form CP2)

Notice as to disposal of goods (Form 3)

Notice to tenant of rent increase (except for rent calculated by tenant's income) (Form 10)

Notice to tenant of rent increase calculated by tenant's income (Form 11)

Notice to tenant of abandonment of premises (Form 12)

Notice of termination to tenant if premises abandoned (Form 13)

Notice to vacate from mortgagee to tenant (Form 14)

Notice to tenant of proposed recovery of premises by person with superior title (Form 17)

Notice of proposed entry to premises (Form 19)

Joint application for disposal of security bond  
Lodgement of security bond money

Variation of security bond money

Consumer Protection family violence report – evidence form

#### **Suggested forms**

Application to rent residential premises (Form 18)

Notice to tenant of breach of agreement (other than failure to pay rent) (Form 20)

Breach notice for non-payment of rent (Form 21)

Notice of termination from tenant to lessor (Form 22)

Notice to lessor of breach of agreement (Form 23)

This list does not include forms used for applications to the Magistrates Court. These forms can be obtained at [www.magistratescourt.wa.gov.au](http://www.magistratescourt.wa.gov.au).

## Appendix 6

### How to terminate your interest in a lease on the grounds of family and domestic violence

(Page 1 of 2)

#### STEP 1

#### Establish a safety plan

Before you serve the *Notice of Termination*, keep in mind:

- If you have co-tenants, the landlord must give each one a copy of the *Notice of Termination* within 7 days of receiving it from you – **this includes the perpetrator if they are on the lease.**
- You can physically leave the premises at any time (even before giving notice), but you will remain liable for your interest in the lease until the termination date you specified on the *Notice of Termination*.
- You will only be able to access the premises to remove belongings up to the termination date; if you wait until after, your right of entry ceases and you will need to obtain permission from the landlord and each co-tenant.

#### STEP 2

#### Serve the *Notice of Termination*

A

##### **NOTICE OF TERMINATION + EVIDENCE\* DELIVERED**

Refer to **DELIVERY METHODS**

*Date delivered  
to landlord*

Day **LANDLORD RECEIVED  
NOTICE + EVIDENCE**  
(After delivery period)

*Date landlord  
received Notice + evidence*

The landlord must keep all supporting evidence you provide secure, private and confidential. They may **only** share a copy of the *Notice of Termination* with co-tenants.

B

Day **1** is the day **AFTER  
LANDLORD RECEIVES  
NOTICE + EVIDENCE**

*Day 1 date*

You must provide **at least 7 full days' notice** to terminate but it can be longer.

**1 2 3 4 5 6 7**

*Day 7 date*

C

Day **8** is **EARLIEST DAY  
YOUR INTEREST IN LEASE  
IS TERMINATED**

*Day 8 date*

**OR,**

if you specify a date  
**later than 7 days,  
DAY LEASE IS TERMINATED**

*Specified termination date*

#### **Delivery methods**

##### **In person:**

Notice to be handed to lessor/agent.

##### **Electronic/email:**

There must be a prior written agreement that email can be used to give notice. You should retain a copy of the notice, record details of how it was served, date of service and sign it.

##### **General post:**

Australia Post mail delivery is now made on limited days. Allow 2–6 business days including:

- the day of the service; and
- additional days for weekends and public holidays.

## Appendix 6

### How to terminate your interest in a lease on the grounds of family and domestic violence

(Page 2 of 2)

#### STEP 2

#### Property inspection

Following receipt of the *Notice of Termination*, the landlord will notify you that they (or the property manager) will conduct an inspection of the property within 7 days. They must give you and each co-tenant 3 full days' notice before inspecting.

*Inspection date and time*

- If you can, it's good to take photos of the property condition before you leave. This may not be possible in all cases.

**\*Permitted evidence is at least one of the following documents:**

- domestic violence order (DVO)
- a family court injunction or application
- copy of prosecution notice or indictment detailing family and domestic violence related charge
- *Consumer Protection family violence report - evidence form* signed by a:
  - doctor
  - psychologist
  - social worker
  - person in charge of a women's refuge
  - police officer
  - child protection worker
  - family support worker
  - person in charge of an Aboriginal health, welfare or legal organisation



## Appendix 7

### What to do when your co-tenant has terminated their interest in a lease on grounds of family and domestic violence

(Page 1 of 2)

#### STEP 1

#### Receive copy of the *Notice of Termination*

When your co-tenant has served a *Notice of Termination* due to family and domestic violence, the landlord must give you a copy of the notice within 7 days.

**Important:** The landlord should only provide you a copy of the *Notice of Termination*. By law the landlord must keep all supporting evidence provided by the departing tenant secure, private and confidential. If you receive any evidence return it to the landlord immediately and report the incident to Consumer Protection on 1300 30 40 54.

Day **YOU RECEIVE COPY OF NOTICE OF TERMINATION**

*Date received*

After the departing tenant's interest in the lease terminates, you and any co-tenants are responsible for the entire rent from that point.

#### STEP 2

#### Property inspection

At the same time as providing the copy of *Notice of Termination*, the landlord will notify you that they (or the property manager) will conduct an inspection of the property. They must give you and each co-tenant 3 full days' notice before inspecting.

*Inspection date & time*

#### STEP 3

#### Decide whether you'll stay or end your interest

**Within 7 full days you must inform the landlord** whether you wish to stay and continue the tenancy or end your interest in the tenancy.

A Day **1** is the day **AFTER YOU RECEIVE COPY OF NOTICE OF TERMINATION**

**1 2 3 4 5 6 7**

*Day 1 date*

Day **7** is **LAST DAY TO NOTIFY LANDLORD TO END YOUR INTEREST**

*Day 7 date (excluding Sat/Sun/public holiday)*

When deciding whether to stay or go, keep in mind:

- You should decide independently of any other co-tenants – choose what is best for you.
- If you stay and continue the lease, you and any other remaining co-tenants will be responsible for the full rent.
- If you stay you may have to top up the bond to the full amount if part of the bond is disposed of.
- Whether you stay or go, you can apply to the Court for determination of your rights and liabilities related to the tenancy:

## Appendix 7

### What to do when your co-tenant has terminated their interest in a lease on grounds of family and domestic violence

(Page 2 of 2)

- If you have been accused of family violence, expect that the Court will hold you liable for your share of rent arrears and any damage caused in the premises while you were a tenant.
- If you have not been accused of family violence, it's unlikely that you will be ordered to pay for more than your share of liability

- B** **DECISION** ☐ **STAY IN TENANCY – Consider reminders above and prepare accordingly**
- ☐ **END YOUR INTEREST – Continue to Step 4 Serve written notice to landlord**

If you stay but any other co-tenants decide to leave, a final property inspection (Step 5) must also occur for each of them.

#### STEP 4

#### Serve written notice to landlord

- A** Day **1** **WRITTEN NOTICE (e.g. Form 22) DELIVERED TO LANDLORD**

Refer to **DELIVERY METHODS**

Day **LANDLORD RECEIVED WRITTEN NOTICE**

*Date delivered*

*Date received by landlord*

- B** Day **1** is the Day **AFTER WRITTEN NOTICE RECEIVED BY LANDLORD**

You must provide at least **21 full days' written notice** to terminate your interest.

1 2 3 4 5 6 7  
8 9 10 11 12 13 14  
15 16 17 18 19 20 21

*Day 1 date*

*Day 21 date*

- C** Day **22** is the **EARLIEST DAY LEASE IS TERMINATED**

**OR,**

if you have given notice for a **later date, SPECIFIED TERMINATION DATE**

*Day 22 date*

*Specified termination date*

#### Delivery methods

**In person:**  
Notice to be handed to lessor/agent.

**Electronic/email:**  
There must be a prior written agreement that email can be used to give notice. The email address for service will be in your lease agreement. You should retain a copy of the notice, record details of how it was served, date of service, and sign it.

**General post:**  
Australia Post mail delivery is now made on limited days. Allow 2–6 business days including:

- the day of the service; and
- additional days for weekends and public holidays.

#### STEP 5

#### Final property inspection

A landlord must do a final property condition report and supply this to you as soon as practicable, and within 14 days after the day your tenancy was terminated. They must give you a reasonable opportunity to attend this inspection.

*Final property inspection date*

*Date property condition report received*

## Appendix 8

### How to provide a notice to your lessor to affix furniture to the wall

#### STEP 1

#### Do your research

Before you give the landlord a Request to Affix Furniture form, do your research:

- Know which furniture you want to attach to the wall, especially its size and weight.
- Know which wall you want to bolt the furniture to. Is the wall a brick and plaster wall or a stud wall? Will you be disturbing asbestos material if you drill into the wall?
- Know which fixings are needed for the type and size of furniture and the type of wall. If you don't know, seek professional advice.
- Consider whether you need professional help to install the furniture bolts in the wall. There can be electrical wires and water pipes in a wall cavity – if you damage these by drilling into the wall, you will be responsible for repairing them.

#### Give your landlord the Request to Affix Furniture form

<b>A</b>	<b>REQUEST TO AFFIX FURNITURE DELIVERED</b> Refer to <b>DELIVERY METHODS</b>	<i>Date delivered to landlord</i>	<b>Delivery methods</b>  <b>In person:</b> Notice to be handed to lessor/agent.  <b>Electronic/email:</b> There must be a prior written arrangement that email can be used to give notice. The email address for service will be in your lease agreement. You should retain a copy of the notice, record details of how it was served, date of service, and sign it.  <b>General post:</b> Australia Post mail delivery is now made on limited days. Allow 2–6 business days including <ul style="list-style-type: none"><li>• the day of the service; and</li><li>• additional days for weekends and public holidays.</li></ul>
<b>B</b>	Day <b>LANDLORD RECEIVED REQUEST</b> (After delivery period)	<i>Date</i>	
<b>C</b>	Day <b>1</b> is the day <b>AFTER LANDLORD RECEIVES REQUEST</b>  <b>1 2 3 4 5 6 7</b> <b>8 9 10 11 12 13 14</b>	<i>Day 1 date</i>	
<b>D</b>	Day <b>14</b> is the <b>DAY YOUR LANDLORD IS DEEMED TO HAVE CONSENTED IF THEY HAVE NOT REFUSED CONSENT</b>	<i>Day 14 date</i>	

## Appendix 9

### How to serve a notice of termination for periodic tenancy agreement on your lessor

This chart will assist tenants with the [count of days](#) needed when giving notice to terminate a periodic tenancy agreement on or after 29 March 2021.

#### STEP 1

##### Serve the Notice of termination

(A)

Day the **NOTICE IS SERVED**

*Date*

#### STEP 2

##### Count at least 21 days

(A)

Day **1** is the day after the notice is received by the lessor, then give at least 21 full days' notice for the tenant to vacate the premises

(B)

Date **LESSOR RECEIVES NOTICE** (after delivery period)

*Date lessor receives notice*

(C)

Day **1** is the day **AFTER LESSOR RECEIVED NOTICE** (Note: Number of days notice can be more than 21 days)

*Day 1 date*

1 2 3 4 5 6 7 8 9 10  
11 12 13 14 15 16 17 18 19 20  
21

#### STEP 3

##### On the day after notice period expires (possession day), the tenant must vacate

(A)

Possession day

*Possession day date*

#### Delivery methods

##### In person:

Notice to be handed to lessor/agent.

##### Electronic/email:

There must be a prior written agreement that email can be used to give notice. You should retain a copy of the notice, record details of how it was served, date of service and sign it.

##### General post:

Australia Post mail delivery is now made on limited days. Allow 2-6 business days including:

- the day of service; and
- additional days for weekends and public holidays.

## Appendix 10

### Going to court for residential tenancy disputes

#### STEP 1

#### Lodging an application

Tenants and lessors need to apply online using the eCourts portal.

If you need to lodge supporting documents and forms, you can do this now or before the court date.

#### STEP 2

#### The court notifies the other party

The other party (tenant/lessor/agent) has 14 days to respond to your application by:


- A** Ignoring the application → you can then ask the court to make a judgement based on your evidence
- B** Consenting to the application → the tenant/lessor agrees to take the action you have asked for
- C** Defending the application → the matter then goes through the court for a resolution, (see step 3)

*Note: they may consent to part of your application and defend another part*

#### STEP 3

#### Before a trial

The court will generally give you and your tenant/lessor/agent a chance to settle the matter in a private conference with the help of a registrar.

-  If you reach an agreement or partial agreement this way, the court can make an order without going to trial

If you do not reach an agreement, or only agree on part of the application, the case may be referred for another conference or listed for a hearing in preparation for trial.

#### STEP 4

#### If you go to trial

- A** Instructions (programming orders) will be sent to you before trial about what to do, e.g. write, lodge and serve a Witness Statement to the other party.
- B** Both parties present their evidence and point of view and the magistrate makes a judgement. This decision can only be appealed in limited circumstances (see '[Going to court](#)').

#### STEP 5

#### After court – once orders have been made

The court might order the tenant to vacate the rental property, or pay outstanding rent, or order the lessor to arrange repairs, or release the bond for example.

If they don't comply with the order, you can apply via eCourts to have the court enforce it.

#### Magistrates Court guides and factsheets:

[Self-Represented Litigants Procedural Guide](#)  
[Pre-trial Conference Minor Case \(step 3\)](#)  
[Trial \(civil matters\) \(step 4\)](#)  
[Enforcing a Judgement \(step 5\)](#)



## **Department of Mines, Industry Regulation and Safety**

### **Consumer Protection Division**

**Contact Centre 1300 30 40 54**

(for the cost of a local call state-wide)

8.30am – 4.30pm Monday to Friday

### **Gordon Stephenson House**

Level 2/140 William Street Perth Western Australia 6000

Locked Bag 100, East Perth Western Australia 6892

Administration: 1300 13 62 37

Facsimile: (08) 6154 6422

National Relay Service: 13 36 77

Website: [www.dmirs.wa.gov.au](http://www.dmirs.wa.gov.au)

Email: [consumer@dmirs.wa.gov.au](mailto:consumer@dmirs.wa.gov.au)

### **Regional offices**

Goldfields/Esperance (08) 9021 9494

Great Southern (08) 9842 8366

Kimberley (08) 9191 8400

Mid-West (08) 9920 9800

North-West (08) 9185 0900

South-West (08) 9722 2888



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