

# Giving notice to end a tenancy

If you want to end your tenancy, it's important to understand the rules for giving notice.

See 'Ending a boarding house tenancy' (<http://www.tenancy.govt.nz/starting-a-tenancy/boarding-houses/ending-a-boarding-house-tenancy/>) for notice periods for boarding houses.

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## Recent changes to notice periods

The Residential Tenancies Amendment Act took effect on 11 February 2021 and changed the law on notice periods and reasons for ending a tenancy.

[See our table for a summary of the former and current requirements. \(http://www.tenancy.govt.nz/law-changes/phase-2/security-of-rental-tenure-law-changes/\)](http://www.tenancy.govt.nz/law-changes/phase-2/security-of-rental-tenure-law-changes/)

**Tenancy agreements signed before 11 February 2021:** requirements for notice periods changed on 11 February 2021. If your tenancy agreement was signed before then, it may state an out-of-date notice period timeframe. Please follow the requirements in the Residential Tenancies Act 1986. For example, if your tenancy agreement was signed in January 2021 and says tenants must give 21 days' notice to end the periodic tenancy, this is now 28 days' notice.

Answer these short questions to find out whether you can give notice to end your tenancy, and how much notice you need to give.

1. Are you a landlord or a tenant?

- Landlord
- Tenant

## Ending a fixed-term tenancy

You cannot give notice to end a fixed-term tenancy early. [However, there are some options available if landlords or tenants want to do this. \(http://www.tenancy.govt.nz/ending-a-tenancy/ending-a-fixed-term-early/\)](http://www.tenancy.govt.nz/ending-a-tenancy/ending-a-fixed-term-early/)

## Ending a periodic tenancy

A landlord or tenant must give notice to end a periodic tenancy. [Read more about ending a periodic tenancy \(http://www.tenancy.govt.nz/ending-a-tenancy/giving-notice-to-end-tenancy/ending-a-periodic-tenancy/\)](http://www.tenancy.govt.nz/ending-a-tenancy/giving-notice-to-end-tenancy/ending-a-periodic-tenancy/).

## When notice can be given

Notice to end a tenancy can be given on any day of any week, to end the tenancy on any day of any week. Notice to end a periodic tenancy can be given at any time after the tenancy agreement has been signed - even if the tenancy has not yet started.

The day of the week that the tenancy ends on doesn't have to match the day of the week the tenancy began on. It also doesn't need to match the day of the week the rent is normally paid on.

[Read more about serving notices \(http://www.tenancy.govt.nz/ending-a-tenancy/serving-notice/\)](http://www.tenancy.govt.nz/ending-a-tenancy/serving-notice/)

## Ending a service tenancy

### If the tenant's employment is ending

The landlord or the tenant must give at least 14 days' written notice to end the tenancy. This notice can only be given if the tenant's employment has ended or either party has given notice for it to end.

In some situations, if the tenant's employment has ended the landlord can give less than 14 days' notice. This also applies if the tenant is transferred with less than 14 days' notice. This can only happen if:

- the landlord has reason to believe the tenant will substantially damage the premises if they stay for the full 14 days
- the landlord's business needs to have a new employee in place in less than 14 days. There must be no other accommodation available for that employee during the 14 days.

### If the tenant's employment is continuing

If the tenant wants to end their tenancy before their employment has ended, they must give 28 days' written notice.

A landlord can only give notice to end a service tenancy if the tenant's employment has ended.

About [service tenancies \(http://www.tenancy.govt.nz/starting-a-tenancy/types-of-tenancies/service-tenancy/\)](http://www.tenancy.govt.nz/starting-a-tenancy/types-of-tenancies/service-tenancy/)

## Retaliatory notice

A 'retaliatory notice' is where a landlord gives a notice to a tenant to end a tenancy in retaliation for a tenant standing up for their rights. For example, if they make a complaint about the tenancy.

It is an unlawful act for a landlord to issue a retaliatory notice. The Tenancy Tribunal can award exemplary damages of up to \$6,500 if a landlord does this.

If a landlord issues a retaliatory notice the tenant can apply to the Tribunal to have the notice set aside. The tenant has to apply within 28 working days of receiving the notice.

### **When a tenant stays in the property after the tenancy ends**

Sometimes a tenant doesn't move out of the property when the tenancy has ended. There could be different reasons for this. The landlord should try to contact the tenant to find out why they haven't moved out.

Sometimes landlords and tenants agree to extend the tenancy if the tenant's having difficulty moving out in time. The landlord doesn't have to agree to this though. If the tenant remains in the tenancy without the agreement of the landlord it is an unlawful act.

If a tenant refuses to move out after the tenancy has ended, the landlord can apply to the Tenancy Tribunal for help. The Tribunal can give an order that returns possession of the premises to the landlord. If the landlord suffers financially as a result of the tenant refusing to move out, the Tribunal can also order the tenant to pay them compensation.

How to apply to the [Tenancy Tribunal \(http://www.tenancy.govt.nz/disputes/tribunal/\)](http://www.tenancy.govt.nz/disputes/tribunal/)

If the tenant stays at the property for more than 90 days after the tenancy ends, it will mean that the landlord has given them a new periodic tenancy. This means that the landlord needs to give the tenant a new notice to end the tenancy if they still want them to move out.

### **Death of a tenant**

If there is only one tenant named on a tenancy agreement and they die, the tenancy ends on one of the following dates (whichever is earliest). This also applies to fixed-term tenancies:

- 21 days after the tenant's personal representative or next of kin gives the landlord written notice of the tenant's death
- 21 days after the landlord gives the tenant's personal representative or next of kin written notice to leave the premises
- a date agreed in writing by the landlord with the tenant's personal representative or next of kin
- a date given by the Tenancy Tribunal on an application made by the landlord (this can be made without notice).

### **Service tenancy**

If a tenant of a service tenancy dies and leaves a dependent living in the premises, the landlord must give at least 14 days' notice to end the tenancy. The landlord can give less notice in the following situations:

- If the landlord's business needs to have a new employee in place in less than 14 days and there is no other accommodation available for that employee during the 14 days. In this case, the landlord can give 5 days' notice.
- If the Armed Forces need to use the property in less than 14 days.

Section 53 (5) of the [Residential Tenancies Act 1986 \(https://www.legislation.govt.nz/act/public/1986/0120/latest/whole.html#DLM95516\)](https://www.legislation.govt.nz/act/public/1986/0120/latest/whole.html#DLM95516) has more information about ending service tenancies if a tenant dies.

[What to know when a tenancy ends \(http://www.tenancy.govt.nz/ending-a-tenancy/what-to-know-when-a-tenancy-ends/\)](http://www.tenancy.govt.nz/ending-a-tenancy/what-to-know-when-a-tenancy-ends/)

### **Withdrawal from a tenancy following family violence**

Under changes to the Residential Tenancies Act, which took effect on 11 August 2021, tenants who experience family violence while a tenant at the premises can withdraw from the tenancy by giving at least 2 days' notice without financial penalty or the need for agreement from the landlord.

This applies to both fixed-term and periodic tenancy agreements.

Regulations that support this provision are being developed.

[Find out more about withdrawal from a tenancy following family violence \(http://www.tenancy.govt.nz/law-changes/phase-3/#withdrawal\)](http://www.tenancy.govt.nz/law-changes/phase-3/#withdrawal)

### **Termination by notice for physical assault by tenant**

Under changes to the Residential Tenancies Act, which took effect on 11 August 2021, a landlord can give notice of at least 14 days to terminate a tenancy, if the tenant has assaulted the landlord, the owner, a member of the landlord or owner's family, or the landlord's agent, and the Police have laid a charge against the tenant in respect of the assault.

This applies to both fixed-term and periodic tenancy agreements.

Regulations that support this provision are being developed.

[Find out more about termination by notice for physical assault by tenant \(http://www.tenancy.govt.nz/law-changes/phase-3/#termination\)](http://www.tenancy.govt.nz/law-changes/phase-3/#termination)

For more information about ending a tenancy, [see our easy to follow guide. \(http://www.tenancy.govt.nz/ending-a-tenancy/what-to-know-when-a-tenancy-ends/\)](http://www.tenancy.govt.nz/ending-a-tenancy/what-to-know-when-a-tenancy-ends/)