

Termination of tenancy during COVID-19: rent arrears or charges



Step 1 - COVID-19 impact test

Is the tenant impacted by COVID-19?

- Has one or more rent-paying members of the household:
 - a) Lost their employment, income or work hours due to COVID-19, **OR**
 - b) Had to stop working or substantially reduce work hours due to illness with COVID-19, another member of the household's illness with COVID-19 or to care for a household or family member with COVID-19? **AND**
- Has this resulted in a reduction in the weekly household income (including government assistance) of at least 25%?

YES NO

Moratorium on terminations due to rental or charges arrears applies

Landlord cannot issue a termination notice for rental or charges arrears or apply to the Tribunal for a termination order on these grounds unless they have participated in good faith in the rent negotiation process run by Fair Trading, and it is fair and reasonable in the circumstances to terminate the tenancy.

Moratorium does not apply

Tenant will need to keep paying rent or risk termination of tenancy

Step 2 - Landlord and tenant negotiation (informal process between parties)

Have landlord and tenant agreed to temporary rent arrangement?

NO NO

Step 3a - Has the landlord either not responded to a written request to negotiate within 7 days, or refused to participate in NSW Fair Trading Dispute Resolution process?

OR

Step 3b - Use NSW Fair Trading Dispute Resolution (formal rent negotiation process)

When a tenant seeks Fair Trading's involvement, they are encouraged to also let the landlord or agent know in writing that they are seeking assistance with the negotiations
NSW Fair Trading will request the evidence to help parties negotiate rent

Have landlord and tenant agreed to a temporary rent arrangement?

NO NO

YES

Is this because an agreement will not avoid financial hardship for the tenant OR the landlord stops negotiating in Fair Trading Dispute Resolution?

YES

Step 4a - Tenant may apply to Tribunal for termination order to end tenancy

Note: Tribunal may require tenant to pay break fee of up to **2 weeks** rent if appropriate in the circumstances.

Step 4b - Landlord may apply to Tribunal for a termination due to rental arrears

Has the landlord negotiated in good faith and is it reasonable for the landlord to issue notice?

YES

YES

Agreement documented

Should include:

- whether the rent will be waived or reduced
- rent amount payable
- date for agreement to be reviewed
- any repayment plan agreed to

NO

Decision and orders made (Timeframe: around 2 weeks after an application is made)

End of tenancy

Tenancy continues

For questions about the new measures, please contact Service NSW on **13 77 88**