

Property Management Focus.

Bringing you news from the world of New Zealand property management.

When is 90 days notice **appropriate?**



There has been a lot of media attention on the rental industry since the 1 July insulation deadline passed. Just days after the deadline, it was reported that Tenancy Services had received over 300 calls from tenants asking about their rights with regards to insulation. There were 40 complaints to the Tenancy Tribunal within the first four days.

In addition to the media spotlight on un-insulated rental properties, there has been speculation that landlords are terminating tenancies using the 90 day notice period in retaliation for tenants standing up for their rights.

Let's explore what a landlord can and cannot do when it comes to giving a tenant notice to terminate a tenancy agreement. For the purpose of this article, we are referring to a periodic tenancy and not a fixed-term tenancy that cannot be terminated by notice.

A tenant can terminate a periodic tenancy by giving not less than 21 days notice to their landlord in writing. A landlord can terminate a periodic tenancy by giving not less than 42 days notice to a tenant when:

- the property has been sold (with vacant possession), or
- the owner, or a member of the owner's family moves into the property.

For any other reason, a landlord must give a minimum of 90 days notice to end the tenancy. A tenant can then give 21 days notice to vacate during the 90 day period if they wish to move out earlier.

So, when is it appropriate for a landlord to give 90 days notice to a tenant?

A landlord can give a minimum of 90 days notice to end a periodic tenancy for any reason other than those already listed. When issuing a tenant with a 90 day notice to vacate, a landlord is not required to give the tenant a reason.

Does this mean that a landlord can give a tenant notice to vacate when they submit a request for maintenance, instead of getting the work done?

No, they cannot. If a landlord serves a 90 day notice to a tenant after they have made a request for maintenance, or made a complaint about the tenancy, this notice can be deemed to be 'retaliatory' and can be set aside by the Tenancy Tribunal.

It is an unlawful act for a landlord to issue a retaliatory notice and the Tenancy Tribunal can award exemplary damages of up to \$4,000 if a landlord does this.

When a landlord enters into a tenancy agreement, they are agreeing to maintain the property to a reasonable state of repair, with regard to the age and character of the premises, for the period during which the property remains habitable and available for rent. In summary, if a landlord has rented a property, they are obligated to maintain it and abide by any changes in regulations governing rental properties, such as the new healthy homes standards.

Usually a tenant will request a repair by email or another method of communication. If this repair request is ignored and not acted upon within a reasonable time frame (and the request was reasonable), the tenant should issue a 14 day notice to the landlord to

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perform the required work. If the landlord fails to complete the repair within 14 days, the tenant can then apply to the Tenancy Tribunal which can order the work to be done.

It is appropriate for a landlord to give 90 days notice to end a periodic tenancy for any other reason, without disclosing

the reason to the tenant, but it must not be in retaliation for a tenant requesting that a landlord meets their rights and responsibilities to the tenant under the Residential Tenancies Act 1986.

It is also important to note that the timeframes for when notice is considered to have been received by

a tenant differs depending on how the notice was delivered.

Speak to your Harcourts Property Manager before listing your property for sale and/or giving your tenants notice to vacate to ensure that the notice served is correct.

The healthy homes standards statement of intent

From 1 July 2019, landlords must include a separately signed statement in new, renewed or varied tenancy agreements.

This statement confirms:

- that on and after the commencement of the tenancy, the landlord will comply with the healthy homes standards, or
- that the landlord already complies with the healthy homes standards.

Harcourts property managers have been including the healthy homes statement of intent since 1 July 2019 with every new, renewed or varied tenancy agreement.

From 1 July 2020, there are additional requirements to the signed statement above, and all new, varied or renewed tenancy agreements must include specific information about how the landlord

complies or intends to comply with the healthy homes standards.

This means that property managers have just under a year to assess any rental homes that may come available for rent or renewal after 1 July 2020 and agree with landlords on a plan to comply with the healthy homes standards, prior to entering into an agreement with a tenant.

Tenants entering into an agreement after 1 July 2020 will therefore be aware of what healthy homes standards the property meets at the date of the agreement and when they can expect any further work, if required, to be completed to meet any remaining standards. Landlords must acknowledge their responsibilities under the new regulations and disclose their intentions to their tenants.

For example, if a landlord does not intend to install an efficient heating source until the final deadline of 1 July 2024 for an

existing tenancy, they must disclose this information to any new tenant signing an agreement between 1 July 2020 and 30 June 2021. The tenant can then make an informed decision on whether to proceed with the tenancy on that basis.

After 1 July 2021, a landlord only has 90 days to meet all the healthy homes standards when they enter into a new, renewed or varied agreement with a tenant.

Rest assured that all Harcourts property managers are well informed on this matter and that you can contact your local Harcourts Property Manager if you'd like to find out more.



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