

04.13 HOUSING & HOMELESSNESS SERVICE ENDING TENANCIES POLICY

SCOPE

RQ Housing Portfolio

POLICY

RQ manages the ending of tenancies in a way that accords with legislative requirements, good practice and natural justice principles ensuring it occurs in ways that minimises the impact on RQ and its tenants. Tenants will be treated in a courteous and respectful manner at all times.

PURPOSE

The purpose of this policy is to outline the end of tenancy process and ensure it occurs in ways that adhere to legislation and in accordance with good practice principles.

RQ will ensure the security of tenure and the maintenance of tenancies wherever possible within, meaning that tenants will have access to:

- Information
- Reasons for decisions
- Internal and external review of decisions, and
- Privacy.

Any form of legal action against a tenant for a breach of agreement will only occur as a last resort and where the breach has been fully determined. RQ will endeavour to resolve any breaches and disputes without the use of legal options.

DEFINITION/S

RQ	Roseberry Qld
General Manager	Also refers to Acting General Manager
Workforce	Refers to all individuals providing service on behalf of RQ, such as Staff, Volunteers, Independent Clinicians, Consortium.
Staff	Refers to paid staff, graduates and student placements.
RTA	Residential Tenancies Authority
RTRAA	Residential Tenancies and Rooming Accommodation Act 2008
QCAT	Queensland Civil and Administrative Tribunal
QPS	Queensland Police Service

PROCEDURES

04.13.01 Voluntary Tenancy Terminations - when a tenant chooses to end their tenancy

1. If a tenant informs RQ staff of the intention to leave. RQ Housing Officers will advise the tenant that they must give two weeks' notice in writing using the– Notice of Intention to Leave. RQ Housing Officers will provide a copy of this form to assist the tenant where needed.
2. When RQ receives the Notice of Intention to Leave, RQ Housing Officers will:
 - a) Send a standard reminder letter advising the tenant of what needs to be done before they vacate the property to ensure the return of their bond
 - b) Make arrangements for a joint property inspection and key collection on the final day
 - c) Complete Exit Condition Report at the joint inspection with the tenant
 - d) Calculate the amount of outstanding rent (if any) and advise the tenant so that they have a chance to pay before moving
 - e) Bond Refund forms will be completed as per the procedures in the RQ Housing Services Bond Policy.

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04.13.02 Tenancy Terminations due to Family and Domestic Violence

Refer to 04.30 Housing and Homelessness Service DFV Policy

04.13.03 Involuntary Tenancy Terminations – when RQ chooses to terminate a tenancy

1. RQ will endeavour to help tenants to maintain their tenancy by allowing time to discuss matters with the Housing Officer.
2. Before a tenant is issued with a breach notice, the RQ Housing Officer will send a courtesy letter informing the tenant of the breach in the tenancy agreement.
3. If the letter is for rent arrears the process will be as outlined in the RQ 04.08 Housing Services Rent Management Policy.
4. For all other breaches the tenant will be asked to contact the RQ Housing Officer or Manager within an appropriate timeframe to discuss the matter. At this meeting, the following will be discussed:
 - a) The situation that needs to be remedied, including the tenant being able to present and provide information related to the alleged tenancy breach
 - b) Information for support agencies, advocates or legal advice
 - c) Information on housing alternatives, if necessary, that would be suitable for the tenant.
5. If the matter is not resolved after the discussion or the tenant fails to contact the RQ Housing Officer/Manager a Notice to Remedy Breach will be issued giving the tenant between seven and fourteen days, as per RTRAA legislation, to rectify the breach.
6. Where necessary the RQ Housing Officer will issue an inspection notice, after the date to check that the breach has been remedied (where appropriate and relevant only).
7. This will be followed by a Notice to Leave if the Breach remains unresolved.
8. The tenant is invited and most welcome to discuss their position with the Housing Officer at any time.
9. During this process, the tenant will be informed of the Complaints and Appeals process, including being provided a RQ Information Sheet on How to Make a Complaint... How to Appeal a Decision.
10. In the event of a Notice to Leave being issued:
 - a) RQ Housing Officers will collate information about the client i.e. history of RTA Form 11 Notice to Remedy Breaches, letters, relevant correspondence relating to previous breach notices, file notes/case notes on conversations relating to breach issues, history of behaviour that have breached the tenancy agreement, and any complaints received.
 - b) RQ will ensure that the correct notice is given.
 - c) RQ may choose to post the notice using Registered Mail to ensure that the tenant receives the notice.
 - d) The tenant will be informed of obligations for ending a tenancy, i.e. cleaning the unit, making sure rent is fully paid and repairing any damage.
 - e) The tenant will be informed of when to return the keys and will be invited to attend a joint exit condition inspection, where it is deemed not to be a risk.
 - f) Where there is a risk the tenant will be invited to attend a meeting in the Housing Office to read over the exit report.
 - g) Bond refund forms will be completed as per the procedures in the RQ 04.09 Housing Services Bond Policy.

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04.13.04 Serving a Notice to Leave Directly to the Tenant

1. If in any circumstance, the Notice to Leave is to be delivered directly to the tenant the following process is to be followed by the Housing Officer:
 - a) Determine the degree of risk involved and where appropriate organise to be accompanied by another RQ staff member.
 - b) Advise the Manager/ General Manager of the arrangements for the eviction before departing and seek approval for the arrangements.
 - c) Comply with the RQ staff calendar process and always ensure that the Manager/General Manager knows the destination and expected time of return.
 - d) Carry a mobile phone pre-setting any numbers that could be useful.
 - e) Use the assistance of the Qld Police Service if there is any information that may suggest there may be personal safety risk.
 - f) Park close to the property, preferably within sight of the accommodation and the general public, ensuring the RQ vehicle is left in a position that will allow for easy departure.
 - g) Listen for sounds of disturbance and check for anything unusual when approaching the home, for example, unusual smells or evidence of drug or alcohol use within or around the premises.
 - h) Do not under any circumstances enter the accommodation, either alone or accompanied.
 - i) Give the Notice to Leave to the tenant or place it in the letterbox of the tenant and return to the office.
 - j) Ensure that the Notice to Leave has been recorded in the RQ Correspondence register as being hand delivered.

04.13.05 Warrant for Possession

1. If a tenant has not moved out of the property by the date listed on the Notice to Leave, RQ Housing Officers will make an urgent application to QCAT for a Warrant for Possession or ring 1300 753 228.
2. A fee will be charged for the application and at least 3 copies of the documentation is required to be lodged at the local magistrate's court. The local QPS will execute and enforce the warrant.

04.13.06 When a Tenant Dies

1. On the death of a sole tenant, RQ will make every effort to liaise with the legal representative of the tenant to arrange for the collection of goods and for vacant possession of the property.
2. If the tenant is not a sole tenant, RQ will work with the remaining tenant to support and assist wherever possible (refer to RQ 04.10 Housing and Homelessness Services Changing Needs of Tenants Policy).

04.13.07 Abandoned Premises

1. The RQ Housing Officer may have reasonable grounds to believe that the tenant has permanently left the premises. For example, where there is:
 - Non-payment of rent
 - Mail or newspapers uncollected at the premises
 - Reports of abandonment by neighbours or others

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- Removal by the tenant of their household goods
 - Services such as gas, electricity and telephone being disconnected, or
 - Failure of the tenant to respond to an Entry Notice.
2. To confirm if the premises have been abandoned the RQ Housing Officer must issue an Entry Notice allowing 24 hours' notice to enter the premises for an inspection in the belief that the premises may be abandoned.
 3. The Abandonment Termination Notice can be served at the same time. The tenancy will end 7 days after the notice has been issued.
 4. The RQ Housing Officer may enter the premises without notice prior to the Tenancy Agreement being terminated under the abandonment procedure if, on reasonable grounds, it is necessary to secure the premises from imminent or further damage.
 5. Even if the premises have been abandoned, in order to end the tenancy, whether it is fixed or periodic the Housing Officer must:
 - a) Apply to QCAT for an order declaring the premises abandoned. This option can avoid disputes arising later if there is doubt about whether the premises were abandoned, or
 - b) Give an Abandonment Termination Notice. The tenancy agreement will be terminated after seven days from the date the notice was given if the tenant does not apply to the QCAT to have the Abandonment Termination Notice set aside. If the Tenant wishes to dispute the notice, they must apply to the QCAT within seven days of the notice. In the case that the seven-day period has expired, the tenant may apply to the Tribunal for a compensation order. The tenant must apply within 28 days of the Abandonment Termination Notice being served and can seek compensation if they can show that they have not abandoned the premises.

04.13.08 Reclaiming Abandoned Premises

1. After the 7-day notice has expired or by order of the QCAT, the RQ Housing Officer enters the premises by whatever means to take possession of the property.
2. Any cleaning or damage is recouped from the bond and abandoned property removed.
3. New locks are fitted to all external doors.

04.13.09 Abandoned Property

1. If a tenant leaves behind goods or personal documents at the end of a tenancy RQ will make every effort to contact the tenant by phone or mail.
2. If the tenant can't be contacted directly a phone call or letter will be sent to the emergency contact in the tenant's file.
3. If RQ has not had a response for the tenant, the RTRAA requires RQ to deal with these goods or documents in a certain manner.
 - a) Make an inventory of all goods left behind.
 - b) In general, "Personal Documents", within seven days of the end of the tenancy, or within seven days of finding the documents must be given to the tenant or the Public Trustee.
 - c) For goods other than personal documents, if the total market value of the goods is less than \$1000, they may be disposed of. If the total value of goods is \$1000 or more the goods may be stored (1 month and then sold). RQ may deduct the cost for the removal, storage and sale of the goods from the money raised through the sale. Any remaining money from the sale must be paid to the Public Trustee within 10 days.

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- d) RQ will not refuse a tenant access to their goods and will not withhold the goods in lieu of payment of rent. However, RQ will ask the tenant to pay reasonable storage and removal costs before the goods are released.

04.13.10 Final Accounts and Debt Recovery

1. When a tenant's move out of a property RQ Housing Officers will calculate all charges including rent, fees and any other charges.
2. The tenant will generally have paid a Bond which is lodged with the RTA. Where necessary and as per the RQ Housing Services Bond Policy, RQ will seek outstanding costs or will refund the Bond, in part or total once the final account has been calculated.
3. Where the tenant is in debit with RQ, a final account will be documented and provided to the tenant for payment.
4. Where rent is to be refunded to the tenant, RQ Housing Officers will complete a Tenant Refund Requisition, seek Manager approval and signature and provide to the Business Administration Team to progress the payment. This refund can be made either by cheque or by direct deposit into the tenant's bank account.
5. Where the tenant may have a credit balance in one account and a debit balance in another, RQ Housing Officers will seek permission from the tenant to transfer the credit balance to pay off debit balance in the other account. If the account is still in credit, this amount will be refunded as per the above procedure.
6. RQ reserves the right to pursue outstanding debts by tenants and recompense on any other matter through QCAT, or use any other legal action to secure payment.
7. If the tenant dies, any outstanding amounts owing will be waived. If there are amounts in credit, this will be paid to their estate.

04.13.11 Appealing Decisions

If a tenant disputes any amounts outstanding and a request to pay, they have the right to appeal the decision as per 02.17 RQ Complaints Appeals and Disputes Policy. A copy of the RQ Information Sheet – How to Make a Complaint... How to Appeal a Decision will be provided to the tenant as necessary.

ACCOUNTABILITY

RQ Housing Officers, RQ Housing and Homelessness Manager, RQ General Manager.

EVALUATION METHOD

Review of RQ policies as per [01.10 Policy and Procedure Development and Review Policy](#), [02.23 Quality Evaluation & Improvement Policy](#)
 Annual Tenant Satisfaction Surveys
 Feedback
 Complaints and Appeals Register.

LEGISLATIVE COMPLIANCE

[Queensland Housing Act 2003](#)
[Queensland Housing Regulation 2015](#)
[Residential Tenancies and Rooming Accommodation Act 2008](#)

RELATED DOCUMENTS

[Form 17a Pocket Guide for Tenants \(rta.qld.gov.au\)](#)
[Form 20 Notice ending tenancy interest \(rta.qld.gov.au\)](#)
[Domestic and Family Violence Report \(rta.qld.gov.au\)](#)

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[Form 4a Bond Refund for Persons Experiencing Domestic and Family Violence \(rta.qld.gov.au\)](http://rta.qld.gov.au)

[Form 15 Abandonment Termination Notice \(rta.qld.gov.au\)](http://rta.qld.gov.au)

[Form 9 Entry Notice \(rta.qld.gov.au\)](http://rta.qld.gov.au)

[03.04 Privacy and Confidentiality of Information Policy](#)

[02.17 Complaints Appeals and Disputes Policy](#)

04.30 Housing and Homelessness Service Domestic and Family Violence Policy

DOCUMENT CONTROL

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09/02/2023	V3	Legislation changes, DFV additions	General Manager	13/02/2023