

RESIDENTIAL TENANCIES COVID-19 MODIFICATION NOTICE – Extending notice timeframes for certain pre-termination actions under the Act

On 24 April 2020, the Northern Territory Parliament passed the *Tenancies Legislation Amendment Act 2020*. This allowed the COVID-19 Modification Notice and amendments to impact the processes involved in the *Residential Tenancies Act 1999*. These Notices provide the framework for the Territory's response to tenancy issues arising as a result of the COVID-19 emergency and were gazetted to commence as of 28 April 2020.

These measures generally ceased at 11:59pm on 15 June 2022, as the Declaration of Public Health Emergency ended at that time.

Tenancy agreements signed on or after 16 June 2022 will be governed solely by the *Residential Tenancies Act 1999* and as detailed in the [Guide to Renting in the Northern Territory](#).

However, the modifications to the *Residential Tenancies Act 1999* that existed during the COVID-19 public health emergency will generally continue to apply to tenancy agreements that were signed before 16 June 2022, until the tenancy ends.

Extending notice timeframes for certain pre-termination actions under the Act

Termination other than for breach of agreement – 'no cause' terminations:

- Notice timeframes for a landlord to terminate a tenancy agreement where the tenant had not breached the agreement (i.e. 'no cause' termination) had been extended to a minimum of 60 days' notice for both fixed term and periodic tenancy agreements.
- The extended notice period was reduced to 42 days by way of Residential Tenancies COVID-19 Modification Notice Amendment (No.5) 2022 for notices of intention to terminate issued between 14 June and 15 June 2022.
- Currently, for tenancies still in existence on 15 June 2022, where no notice was previously given,

the following notice periods apply in relation to termination by a landlord:

- for a periodic tenancy: 42 days' notice
- for fixed term tenancies: 14 days' notice

Termination for landlord not undertaking repairs or maintenance other than emergency repairs:

- The timeframe for a landlord undertaking repairs and maintenance that are not emergency repairs was extended by the modifications, acknowledging that it may have been increasingly difficult for a landlord to arrange the repairs in a timely manner and be able to pay for them if their rental income is affected.
- Under the modifications, if a tenant has notified the landlord of the need for repairs or maintenance that are not emergency repairs, the landlord will have 60 days in which to complete them before a tenant can issue a notice of intention to terminate (RT04b 'breach' notice).
- Where a tenant issues a 'breach' notice, the landlord has 60 days, from the date the notice is received, to remedy the breach before the tenant can apply to the Tribunal to terminate the tenancy and/or possibly seek compensation.

Termination for non-payment of rent where COVID-19 hardship is present:

- For this modification to apply, the tenant must have notified the landlord of COVID-19 hardship as soon as they became aware of the hardship. Where a tenant notifies the landlord of COVID-19 hardship, the landlord may request proof of that hardship but the type of proof is limited to that listed below. If the landlord does request proof, the tenant must provide one of the types of proof listed below. A tenant who does not, without a reasonable excuse, provide the required proof may be in breach of the tenancy agreement and the unmodified processes for termination for non-payment of rent will apply.
- Where a tenant has notified the landlord of COVID-19 hardship, the rent must be in arrears for at least 60 days before the landlord can give the tenant a notice of intention to terminate for non-payment of rent and require the tenant to rectify the breach (i.e. a 'breach' notice). Currently, the rent must have been in arrears for at least 14 days before a 'breach' notice may be given.
- The 'breach' notice must give the tenant at least 60 days to remedy breach before the landlord can apply to the Tribunal to terminate the tenancy and obtain an order of possession. Currently the 'breach' notice must give the tenant more than 7 days to remedy the breach before the landlord can apply to the Tribunal.
- The landlord has up to 60 days to apply to the Tribunal if the breach has not been remedied within the time given in the 'breach' notice. Currently the timeframe to apply to the Tribunal is 14 days.
- If a tenant notifies the landlord of COVID-19 hardship after the landlord has given the tenant a 'breach' notice and:
 - the matter is not before the Tribunal: the 'breach' notice ceases to have effect and the above COVID-19 hardship timeframes apply to any new 'breach' notice issued by the

- landlord;
- the matter is before the Tribunal: the modified termination processes apply to how the Tribunal can consider the matter.

Evidence of COVID-19 hardship for rent:

The following forms of evidence will establish proof of COVID-19 hardship for the purpose of a landlord's request:

- A statutory declaration, under the *Oaths, Affidavits and Declarations Act 2010*, from the tenants employer of:
 - The reduction in income or the termination or suspension of the tenant's employment as the case requires; and
 - The reason for the reduction, termination or suspension.
- Evidence of an approval of the tenant for, or receipt by the tenant of, Commonwealth COVID-19 related financial assistance payment
- A certificate from the Commissioner of Tenancies stating financial hardship due to COVID-19.