

Report on RTA Review

Periodic Tenancies

Periodic tenancies can only be ended by a landlord for specific reasons, giving 90-days notice. The reasons are:

1. To sell the property (Vacant position notice is also increased to 90 days.)
2. To use the premises for business purposes. (Could be to rent on Air BNB)
3. To carry out extensive alterations where it would be impractical for the tenant to remain.
4. Demolishing the property
5. If the landlord is not the owner and is ending their association (i.e. HNZ ending their lease)
6. If 3 notices for separate antisocial acts within a 90-day period are given to the tenant. (The landlord must still apply and provide proof to the Tenancy Tribunal to end the tenancy)
7. If the tenant has been at least 5 days late in paying the rent over a 90-day period.

While the inclusion of reasons 6 and 7 are good indications of what the Government sees as reasonable to issue a 90-day notice, they do not help landlords to manage tenants behaving badly.

Faced with antisocial tenants, neighbours must put up with three antisocial acts before a landlord is allowed to start taking action. Even then, neighbours must put themselves at risk by having to inform the tenants landlord of the incident, who must then serve their tenant with a notice.

It is unlikely many neighbours will tell landlords about antisocial behaviour knowing that the landlord must alert their tenant at least three times before they can even start to take action.

While Government have indicated that they think three notices for antisocial behaviour is sufficient for a tenancy to be ended with a 90-day notice, the Tribunal can still disallow it. Other tenants and neighbours will have to provide proof and put themselves at risk multiple times.

Rather than taking immediate action as soon as antisocial behaviour occurs, landlords will have to wait until three acts occur and then apply to and wait for a Tenancy Tribunal hearing where the adjudicator may or may not grant permission. Are neighbours going to be happy with this?

NZPIF research shows that only 3% of tenants are issued with a 90-day notice each year. Nearly half of these are for antisocial behaviour affecting neighbours. While antisocial tenants are a small minority of all tenants, our research indicates that there are around 7,000 antisocial tenants.

The proposed changes make it harder for us to manage these antisocial tenants, rather than improving security for the vast majority of tenants.

The NZPIF believe that these proposals will mean landlords will be less able to help neighbours affected by antisocial tenants. This includes owner occupied neighbours as well as tenants. If our rental properties are next to antisocial tenants, their landlord is unlikely to be able to move them on. This means our tenants are likely to move instead, so we will have to find a new tenant. Our tenancies may turnover faster because no one likes living next to antisocial tenants.

Fixed Term Tenancies

Fixed term tenancies will convert to periodic tenancies at the end of the fixed term period unless:

1. Both parties agree to another fixed-term
2. Both parties agree to end the tenancy

3. The landlord can end the tenancy for any of the new stated reasons for ending a periodic tenancy
4. The tenant decides they don't want to continue

The tenant can end the tenancy for any reason, but must give 28 days' notice before the fixed term period ends.

If the fixed term tenancy is being ended by the landlord to reoccupy the premises for themselves, family or an employee, then they must give 63 days' notice.

It appears that this change is to counter landlords using fixed term tenancies as a work around for not being able to end tenancies with a 90-day notice. It will also have a serious impact on student lets.

Enforcement

This is to increase the MBIE Compliance Teams enforcement tools.

Firstly, they will be able to apply enforceable undertakings, so that if the landlord doesn't comply, penalties can be applied.

They will be able to issue improvement notices which are items or changes that they can demand to occur rather than agree that they will occur with the landlord.

There will be an infringement regime so that if landlords do not comply with the Compliance Teams notice, they can issue fines between \$500 and \$1,000 without having to go through the Tenancy Tribunal. These are criminal offences but without a record.

Secondly, a new class of penalties called Civil Penalties will be introduced that will only apply to landlords with six or more tenancies. They will apply in five areas:

1. Not providing the premises in a reasonable state of cleanliness, not supplying smoke alarms or complying with Healthy Homes Standards.
2. Letting a contaminated property
3. Undertaking retaliatory action
4. Intentionally using one of the allowed termination notices when it doesn't apply
5. Using contracts that contravene the RTA

MBIE can request that higher Civil Penalties should apply.

Tenants making modifications to the rental property

Tenants may make minor fittings to the rental property, for which they need their landlords permission which they are not permitted to unreasonably deny.

The changes are intended for situations such as earthquake stabilising furniture, baby proofing the property, adding curtains, fire alarms and door bells, i.e. very minor stuff.

There are also conditions on what fittings can be installed. Landlords can reasonably object if:

- It is not low risk
- remediation would not be easy
- it would disturb hazardous materials
- there are health and safety concerns
- the fittings require legal consent

- the fittings compromise existing obligations, such as Body Corporate rules
- the safety or character of the building is affected
- it is unreasonable on third parties

These appear to be in line with discussions at the RTA Review Workshops and not a surprise or unreasonable.

Rent

Changes are intended to remove the opportunity for rental bidding and no-price “make an offer” advertising.

- Landlords are prohibited from seeking rental bids
- It is compulsory to include a rental price in advertising
- Tenants can still offer more for a property if they choose to voluntarily

In addition, rental prices can only be increased annually.

Privacy and access to Justice

These changes are to address tenant concerns that having their name publicly available on a successful tenancy tribunal application may negatively affect their ability to get future rental accommodation. This is despite the tenant having taken a landlord to the Tenancy Tribunal to enforce their rights.

Either the tenant or landlord (but really it only applies to the tenant) can apply to have their details removed from any publicly viewable Tenancy Tribunal decision if they have been fully or substantially successful in the case.

Assignment

Seeks to improve the ability for tenants to assign a tenancy when they want to break a fixed term tenancy. Assignment is where the first tenant’s agreement ends and a new tenancy agreement is written between the landlord and the new tenant.

Landlords will not be able to state that tenants “shall not” assign a tenancy without the landlords written consent.

Tenants still need to request that they can assign the tenancy, however landlords cannot unreasonably refuse to do so.

This change does not affect subletting, where a tenant lets the property to another person and effectively becomes their landlord. Landlords can still prohibit subletting in their tenancy agreements.

Pets

There are no changes to the RTA covering pets, however Government have indicated that they may introduce changes in the future.