



## Domestic Violence Victim Tenancy Rights

***Recent reforms to the NSW Residential Tenancy Act 2010 have now given victims of Domestic Violence the opportunity to immediately terminate their tenancy without ongoing liability if they or a dependent child are in circumstances of Domestic Violence.***

### The Old Law

Prior to the introduction of the reforms on 28 February 2019, victims of Domestic Violence wanting to end their fixed term tenancy without liability needed to give their landlord 14 days' notice and a copy of a Final Apprehended Violence Order (AVO) which excluded the perpetrator from the rental property or seek an order from the NSW Civil Administrative Tribunal (NCAT). As it could take up to 12 months to get a Final AVO with an exclusion order, a victim's ability to get a quick end to their lease was mostly unattainable.

### The New Law

Under the new reforms a Domestic Violence victim can now end their tenancy immediately by giving their landlord a Domestic Violence Termination Notice (DVT Notice) with one of the following forms of evidence attached to the DVT Notice;

- Certificate of Conviction of the Domestic Violence Offender; or
- A provisional, interim or final Domestic Violence Order (DVO) protecting them from the Domestic Violence offender; or
- A Family Law injunction granted on the basis of evidence of Family Violence; or
- A Declaration by a medical practitioner registered in NSW declaring that the person or their dependent child are a victim of domestic violence. This declaration has to be in a form prescribed under the Residential Tenancies Regulations 2010, but importantly it does not require that the details of the Domestic Violence be disclosed, just that the registered medical practitioner has formed a view that the victim tenant or their dependent child is a victim of Domestic Violence.

The Domestic Violence victim must also give a copy of the DVT Notice to any other co-tenant, including the perpetrator, but they are not required to attach any of the above forms of evidence to it. The tenant can give their landlord and any co-tenants the DVT Notice by handing it to them, leaving it in their mail box in an envelope addressed to them or by posting it or emailing it them.

While it's generally the case that co-tenants of a property are liable for damage caused to their rented property by themselves and any guest or invitee, the new reforms also mean that victims of Domestic Violence are now not liable for damage caused by a co-tenant or other person during the commission of a Domestic Violence offence. The new rules in fact give NCAT the power to assign liability for damage to a particular violent co-tenant or Domestic Violence



offender. Landlords and their managing agents are now also prohibited from listing a person who ended their tenancy early by giving a DVT Notice as a bad tenant on any tenant database.

## What it means for Tenants who are Domestic Violence Victims

The new laws ensure a tenant can extricate themselves from a situation of Domestic Violence more immediately without being liable to pay compensation or fees for the early termination of their lease, including break fees, loss of rent, re-letting and advertising fees or costs relating to abandoned goods. Just as important as these financial safeguards, the new laws ensure victims of domestic violence will not be discriminated against when trying to secure a future rental property.

## What it means for Co-Tenants

A co-tenant who receives a copy of the DVT Notice can also apply to NCAT to end their tenancy. If the co-tenant is not the perpetrator of the Domestic Violence and continues to reside at the property after the DVT Notice is served, they are entitled to a two-week period of paying only their share of the rent. They are also not responsible for property damage caused by the perpetrator in a Domestic Violence incident.

## What it means for Landlords

A landlord is able to apply to the NCAT if they wish to dispute the validity of a DVT Notice, however the Tribunal can only examine whether the DVT Notice was properly given under the tenancy laws. Accordingly, a landlord will not be able to dispute the contents of a Declaration in any Tribunal proceedings, if it is used as evidence.

In addition to being prevented from listing a tenant on a residential tenancy database, if the lease is ended in circumstances of domestic violence, landlords and their agents are also prohibited from disclosing any information contained in both the DVT Notice and the supporting documentary evidence attached to it. Landlords of residential properties also will likely bear some additional costs and rental losses in circumstances where a tenant serves a DVT Notice.

***If you want more information about the new Domestic Violence Tenancy Rights or about any Domestic Violence issue please contact [Oliver Hagen](#) or [Ken Gray](#) on 02 4731 5899 or email [familylaw@batemanbattersby.com.au](mailto:familylaw@batemanbattersby.com.au).***