

Serving notice

To your tenant, landlord or agent

There are a number of circumstances where it is necessary to give written notice, such as putting up the rent, notifying access for an inspection or to terminate the tenancy agreement. When serving a notice it is important that you follow the correct procedures. If you don't do this you run the risk of causing an unnecessary delay or having to start the whole process all over again or incurring extra costs.

Amount of notice required

The amount of notice you need to give depends on the circumstances. Different notice periods apply when a notice is served:

- from a tenant to end the tenancy agreement
- from a landlord to end the tenancy agreement
- to increase rent
- to access the premises to carry out an inspection.

The Fair Trading website has more information about these specific notice periods.

Counting days

Counting the days for giving notice is set out in the *Interpretation Act 1987*, which covers all Acts in NSW.

Days in the notice period (eg. 14 days) are calendar days, not working days. All days of the week are counted, including weekends and public holidays. However, the day on which the notice is served is not counted.

Example: If a tenant faxes or hand delivers a 21-day termination notice on 1 February, the 21 days are counted starting from 2 February. The 21st day is 22 February.

If notice is sent by post, an extra 4 working days has to be added to the notice period. Weekends, public holidays and bank holidays are not counted in the 4 days.

Example: If a landlord posts a 14-day termination notice on Friday 4 February, the 4 working days for postage starts on Monday 7 February. The notice is considered to

have been served on Thursday 10 February. The first day of the 14-day notice period starts on Friday 11 and ends on Thursday 24 February.

How to serve notice

You should not use registered mail to serve notices, as it may not be collected. You cannot serve a notice by pinning it on or slipping it under the person's door. Likewise, you cannot serve notices by email, text message or over the phone.

A notice can be given by:

- handing it to the tenant or landlord in person or
- handing it to somebody aged 16 or over at the tenant's or landlord's residential or business address or
- personally putting it in the tenant's or landlord's letterbox, in an envelope addressed to them or
- posting it to the tenant or landlord at the address they have specified for receiving notices (eg. care of an agent) or
- faxing it to the tenant or landlord
- if the tenant or landlord is a corporation, by faxing or posting it or handing it to a person aged 16 or over at the corporation's address.

Where there are two or more tenants or landlords, the notice may be given to either one and does not need to be given to both.

Proof of service

You don't have to be able to prove that the notice was received by the other person, only that it was properly served. Therefore, keep a copy of each notice, including some form of written record of the method you used to serve it, and the date it was sent or handed to the person.

If you are delivering a notice in person or putting it in a letterbox it may be a good idea to take along a witness. If a dispute is likely to arise it is better to err on the side of

caution. Use more than one means of service or allow an extra day for service to be safe.

www.fairtrading.nsw.gov.au
Fair Trading enquiries 13 32 20
TTY 1300 723 404
Language assistance 13 14 50

This fact sheet must not be relied on as legal advice. For more information about this topic, refer to the appropriate legislation.

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