

Tenancy After a Disaster

After a disaster

- Inform your landlord/agent in writing as soon as possible of any damage to the property.
- Let them know of any immediate safety issues and urgent repairs that may be required.
- Take photos of all damage, then remove damaged fabrics and soft furnishings to prevent further damage. If possible, retain a material patch as a sample.
- Ventilate the premises as soon as practicable and continue to ventilate.
- Your tenancy continues until an order is made by a court or tribunal that it is terminated, or you and the landlord both agree and you leave.

Your home is partly uninhabitable

If it is **safe to remain**, you may stay while repairs are organised.

You should:

- Protect your belongings from further damage.
- Confirm with your landlord/agent that you intend to stay.
- Provide written details of repair needs (including temporary make-safe repairs).
- Request an urgent inspection and written repair schedule.
- Follow up all conversations in writing.

You do **not** have to leave immediately

You can stay in your home unless the NSW Civil and Administrative Tribunal (**NCAT**) decides it is uninhabitable and that terminating your lease is justified.

If you do not want to leave

- A termination notice from the landlord/agent **does not** require you to leave immediately.
- They **cannot evict you** unless NCAT has made a termination order.
- You may be entitled to a full or partial rent abatement or reduction.
- You must continue to pay rent unless you have an agreement with the landlord in writing or an NCAT order clearly stating that you do not need to pay rent.

If you want to leave

You may end the tenancy if the premises are wholly or partly uninhabitable. To do this:

1. Give the landlord a written termination notice stating the property is uninhabitable and the reasons why,
2. Move out and return the keys
3. Any overpaid rent must be refunded within 14 days of your request, and
4. No break fee will apply where the home is uninhabitable.

Note: The landlord/agent can dispute your termination notice if they disagree the property is uninhabitable. If this happens you should get legal advice before terminating your tenancy.

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Emergency accommodation

Landlords/agents **do not** have to provide emergency accommodation.

Damaged personal property

You are responsible for insuring your personal property. Your landlord is not responsible for replacing or repairing it.

Rent abatement or reduction

- If the property is wholly or partly uninhabitable, you may be entitled to a full or partial rent abatement.
- If the property is not uninhabitable or is partially uninhabitable, you may be entitled to a temporary rent reduction.

If you and your landlord cannot agree on this, you can make an application to NCAT.

You only have 28 days from when the property becomes uninhabitable to apply for a rent abatement.

You can make application for a rent reduction any time before your tenancy ends.

Keep paying normal rent

You must continue paying rent until the tenancy ends or a rent abatement or reduction is agreed in writing or ordered by NCAT. If you stop paying rent, the landlord can terminate your tenancy.

Overpaid rent

If the tenancy ends due to uninhabitability, overpaid rent must be refunded within 14 days.

Repairs (see repair fact sheet)

The landlord must give you two days' notice to make non-urgent repairs, however:

- Consider waiving this to prevent delays, and
- For urgent repairs no notice is required.

If the landlord refuses to repair

- You may apply to NCAT for an order that the landlord must carry out the repairs.
- NCAT may also make other orders about payment of money, including an order that you pay rent to the Tribunal until repairs are completed.
- You have 3 months from the date the landlord failed to meet your deadline to repair to apply to NCAT for these orders.
- You should seek legal advice before making an NCAT application.

Moving out temporarily

If you need to move out while repairs are being completed, decide with your landlord/agent in writing:

- How long you will be away
- Who is responsible for goods at the premises and how they will be stored,
- Whether the rent will be reduced and by how much while you are away.

Northern Rivers Tenants Advice and Advocacy Service:

For more information or advice call:

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(02) 6621 1022 or 1800 649 135