

Abandoned properties

Exclusions to procedures

This procedure does not apply in the following circumstances:

- The tenant is deceased; or
- The tenant has left the property but other residents remain in occupation; or
- The tenant has advised NCCH that they are in permanent residence of the tenancy/dwelling, yet contrary reports or information exist (See NCCH procedures on "Non-disclosure")

Legal obligations

NCCH is bound by the provisions of the Residential Tenancies Act 2010 in relation to abandoned properties and abandoned goods.

Relevant provisions include:

- Abandonment of residential premises (ss106-107)
- Goods left on residential premises (ss126 -135)
- Landlord's rights to enter residential premises (ss56-61)

All NCCH tenancy staff should be broadly familiar with these provisions.

Documentation requirements

A landlord is legally allowed to enter a property if there is a reasonable belief that the residential premises have been abandoned. The Abandoned Property Report form will assist in establishing those reasonable grounds for entry and access. However the law does not necessarily give a landlord the right to take possession of the property. Therefore, an order for possession must ALWAYS be sought from the NCAT where it is not entirely clear that the premises have been abandoned.

Completing the report is imperative in NCCH having to make any case for having reasonable grounds for have entered the property.

The relevant documents are:

- Abandoned Property Report
- Abandoned Goods Inventory (this is an Excel spreadsheet that can be accessed from the NCCH intranet site)
- Disposal notice: NCCH letter that gives tenants 14 days notice to remove goods left behind (this standard letter also contains optional clauses that can be used or deleted according to individual situations)

NCAT Orders

When seeking an order from the NCAT for possession, NCCH must consider also seeking at the same hearing:

- An order for compensation for rent and non-rent arrears; and/or
- An order for compensation for any property damage (if entry to the property has been approved and a scope of works has been completed and costed): and/or

- An order for resale of goods left behind (see sections below: subject to entry having been gained, a disposal notice having been issued to the tenant and an inventory of any goods left behind being completed)

In cases where NCCH has applied for an order that the property has been abandoned, any required work at the vacant property is not to commence until a NCAT order for possession is granted. In particular, locks are not to be changed (unless we have a reasonable concern for the safety of the property unless done so). No removal of any goods from the property is to take place until the NCAT has provided the appropriate possession order.

NCCH must consider applying for an urgent hearing by the NCAT, where there is the potential for the property to be damaged until possession is granted. Consideration should also be given to make a case to the NCAT for immediate possession.

Goods left behind

Sections 126 – 135 of the Act deal with the issues of goods left behind at properties.

In all cases, an inventory of all items must be completed and stored on the tenant's file. The inventory must itemize all items and categorize them as either:

- Perishable goods; or
- Non-perishable goods; or
- Personal documents

It is recommended that, wherever possible, an estimated value is attached to each item – as this is further reasonable indication of the age/condition of each. Photographs of the property need to be taken and stored on the tenant's file.

Disposal of goods

- Perishable goods can be disposed of immediately.
- Personal documents (s126 of the Act for definition) must be held for 90 days, so the tenant can collect them. At the end of that time, the personal documents must be returned to the issuing authority.
- Other goods must be stored for 14 days.

It is usual practice that, for non-perishable goods, NCCH would not remove the goods from the property, but leave them there for collection by the tenant. During this period, the tenant is charged an "occupation fee" (not more than the current rent) for a maximum of 14 days. This charge can be waived in cases of genuine hardship.

The tenant must be issued a letter (GENE14 Goods disposal notice) which:

- provides notice that personal documents should be collected from NCCH within 90 days; and/or
- all other goods (provide inventory) must be collected within 14 days.

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A standard letter (GENE14) should be sent to the tenant at their last known address. If the tenant has not provided a forwarding address, the letter is sent to the property (as the tenant may have a mail forwarding service) and a copy also pinned to the front door of the property. A copy of the letter should also be sent to advocates or other interested parties, where this does not contravene the tenant's right to privacy.

INFORMATION	
Title	Abandoned properties
Section	Housing Services
National Regulatory Code Evidence Guideline	Performance Outcome 1: Tenant and Housing Services
National Community Housing Standard	Standard 1.4 Ending tenancies
Last review	28 February 2015
Next review	28 February 2017
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