



Termination of lease for COVID-19 impacted tenants

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Termination of lease for COVID-19 impacted tenants

As property managers should already be aware, the COVID-19 impact on leases, tenants and landlords alike has been something that is unprecedented.

Sudden mass unemployment has left many tenants unable to pay their rent in full and in some cases at all.

We have previously discussed the need for open communication with our landlords and tenants as well as the Government's solution to unexpected homelessness of "closing" the tribunal application process for non-payment of rent on behalf of the agent or landlord. This has necessitated a discussion between landlord and tenant for the possibility of a negotiated rent reduction.

While it is understood that many landlords could also face financial hardship during these times, we at the college are hearing that many landlords are not entertaining such negotiations.

For those tenants that are affected by COVID-19 related hardship, the NSW Government has announced further changes for residential tenants facing financial hardship due to COVID-19.

From 14 May 2020, tenants who are unable to negotiate a rent reduction with their landlord can seek to terminate their lease through NCAT. If a termination order is made under the relevant law, compensation (break fee) may be payable to the landlord of not more than two weeks rent.

The Residential Tenancies Act 2010 sets out how an "impacted tenant" is defined:

S228B When a household is impacted by COVID-19 pandemic:

1. For the purposes of this Part, a household is impacted by the COVID-19 pandemic if:
 - A. any 1 or more rent-paying members of the household have:



- i. lost employment or income as a result of the impact of the COVID-19 pandemic, or
 - ii. had a reduction in work hours or income as a result of the impact of the COVID-19 pandemic, or
 - iii. had to stop working, or materially reduce the member's work hours, because of:
 - a. the member's illness with COVID-19, or
 - b. another member of the household's illness with COVID-19, or
 - c. the member's carer responsibilities for a family member ill with COVID-19, and
- B. as a result of any of the matters stated in paragraph (a), the weekly household income for the household has been reduced by at least 25% compared to the weekly household income for the household before the occurrence of any of the matters.

2. In this section:

"weekly household income" means the total of the weekly income, including any government payments, received by each rent-paying member of the household.

For the tribunal to make a determination to terminate the lease at the request of the tenant they will apply s228C which states the following:

1. The Tribunal may, on application by an impacted tenant, make a termination order if satisfied that, during the moratorium period:
 - A. the impacted tenant has, by written notice given to the landlord or landlord's agent, asked the landlord to participate in a formal rent negotiation process and the landlord:
 - i. has not responded to the notice within 7 days of the impacted tenant making the request, or

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- ii. has refused to participate in a formal rent negotiation process, or
 - iii. has agreed to participate in, but has subsequently failed to respond to or participate in the process, or
- B. the landlord:
- i. does not respond to notice of any part of the formal negotiation process given by NSW Fair Trading within 7 days of the giving of the notice, or
 - ii. fails to participate in, or stops participating in, the formal rent negotiation process, or
- C. the impacted tenant and the landlord have participated in a formal rent negotiation process

in good faith but are not able to reach an agreement that would avoid financial hardship for the impacted tenant because of:

- i. the amount of rent that would be payable under an arrangement the landlord could agree to, or
 - ii. the amount of unpaid rent that has accrued, or will accrue, if the agreement is not terminated.
2. For the purposes of determining any of the matters stated in subsection (1), the Tribunal may have regard to the following:
- A. any advice provided by NSW Fair Trading relating to the participation of the landlord or impacted tenant in the formal rent

UPCOMING WEBINARS

3 HOUR COMPULSORY CPD

Strata Management	TUE 23RD JUN
Sales & Leasing	TUE 7TH JULY
Strata Management	TUE 21ST JULY

3 HOUR ELECTIVE CPD

Residential Property Management	TUE 16TH JUN
Property Sales	TUE 30TH JUN
Strata Management	TUE 7TH JULY

DIPLOMA OF LEADERSHIP & MANAGEMENT - EVENING WEBINARS

Manage personal work priorities and professional development	TUE 7TH JUL
Lead and manage team effectiveness	TUE 21ST JUL

Manage operational plan	WED 19TH AUG
Manage Meetings	WED 2ND SEP

BSB51918 - Diploma of Leadership & Management

negotiation process, including whether the landlord or impacted tenant refused, or refused to make, a reasonable offer about rent,

- B. whether the impacted tenant has continued to make any payments towards the rent,
 - C. the nature of any financial hardship experienced by the landlord or impacted tenant, including the general financial position of each party,
 - D. any special vulnerability of the impacted tenant,
 - E. any other matter the Tribunal considers relevant.
3. An impacted tenant may make an application under this section

without giving the landlord a termination notice.

4. An impacted tenant must give a copy of the application to the landlord or landlord's agent.
5. If the Tribunal makes the termination order, the Tribunal may also order the impacted tenant pay compensation to the landlord of an amount of not more than 2 weeks rent.

'Til next time, wishing you every success in your business ventures,

Rosy Sullivan
Director | College Principal

UPCOMING FACE TO FACE COURSES

3 HOUR COMPULSORY CPD

Strata Management	WED 26TH JUN
Strata Management	FRI 10TH JULY
Sales & Leasing	FRI 24TH JULY

3 HOUR ELECTIVE CPD

Residential Property Management	THU 18TH JUN
Property Sales	WED 24TH JUN
Strata Management	THU 25TH JUN

ASSISTANT AGENT - CERTIFICATE OF REGISTRATION

Real Estate and Stock & Station	6TH - 9TH JULY
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Units taken from nationally accredited training qualifications from the CPP41419 Certificate IV in Real Estate Practice.

Strata Management	20TH - 23RD JULY
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Units taken from nationally accredited training qualifications from the CPP40516 Certificate IV in Strata Community Management.

Please note: All face to face courses will be held at our Town Hall premises in the Sydney CBD



From the office

So much excitement in one fortnight – we haven't experienced this now for months.

So much excitement in one fortnight – we haven't experienced this now for months. Not only did we have a long weekend, but all of our team are now back in the office and we have started running face-to-face classes in our head office premises at Town Hall in the CBD. With the lifting of some restrictions, ACOP now has the capacity to offer classes up to 14 students. This week, we kicked off with a Certificate of Registration program with 14 students all keen to commence their careers in the property industry. Our trainers are smiling as they are back in front of students and getting that feedback that they need as trainers. Mind you, we are still offering CPD classes every Tuesday via webinars, as so many students have found that this is a fantastic way to complete their CPD and still have valuable interaction with the trainer. And then we have our online students, who we only get to meet via emails and telephone calls. It really doesn't matter how our students complete their training, we are all so happy to be

interacting more with the industry and talking about positive career futures with our clients.

Our physical life in the College has significantly changed, with physical distancing being so important, along with hygiene protocols. So it's individually wrapped items for morning and afternoon teas for students – we are all missing the catering from our favourite café downstairs in our building. We also have moved to water bottles for students rather than glasses and jugs. These and many more changes – not to mention all of us (staff and students alike) are having our temperatures taken each morning – are part of the new normal. Of course, we are now all vying for the highest and lowest temperatures on a daily basis.

Cakes... still nothing. But I have a sneaking suspicion that there will be one next week to celebrate the end of the financial year, so stay tuned.

UPCOMING FACE TO FACE COURSES

PROPERTY LICENSING

Commercial Sales & Leasing SYDNEY CBD	30 TH - 31 ST JULY
Property Sales SYDNEY CBD	27 TH - 29 TH JULY
Stock & Station Agency Practices SYDNEY CBD	24 TH - 26 TH AUG
Strata Management Agency Practices SYDNEY CBD	17 TH - 19 TH AUG
Auctioneering SYDNEY CBD	2 ND - 3 RD JULY
Property Management Business Development SYDNEY CBD	27 TH - 28 TH AUG

PROPERTY LICENSING

Financial Management SYDNEY CBD	31 ST AUG - 1 ST SEP
Trust Accounting + Insurance SYDNEY CBD	THU 20 TH AUG
Trust Accounting SYDNEY CBD	13 TH - 14 TH JULY
Property Management SYDNEY CBD	15 TH - 17 TH JULY
Business Broking Agency Practices SYDNEY CBD	3 RD - 4 TH SEP

Units taken from nationally accredited training qualifications from the CPP41419 Certificate IV Real Estate Practice and CPP40516 Certificate IV in Strata Community Management.

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CONSUMER GUIDES

THESE 9 GUIDES WERE CREATED TO HELP AGENTS AND CONSUMERS WORK MORE EFFECTIVELY WITH EACH OTHER

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