



Death of a Tenant

College Chronicle
Newsletter

March 19 2021



Australian College
of Professionals

RTO 91513

Tenancy laws for victims of domestic violence



As always, the College received an interesting question from a property manager just this week. Unfortunately, and sadly, it is not an uncommon question.

That question is - what happens to a tenancy when a tenant passes away while in a rental tenancy agreement? Specifically, the question this week revolved around what happens to their tenancy and any co-tenants still residing at the property?

In many cases, the death of a co-tenant is going to have an impact on the remaining co-tenant's ability to facilitate the weekly rental and it is important they understand what options are available to them. Thankfully this is an area that has been well considered within the

Residential Tenancies Act 2010, which specifically sets out the process that should be followed in the event that the tenant was the sole tenant as well as if the tenant was a co-tenant.

In the event that the tenant was a sole tenant, section 108 sets out a very clear process, as follows:

1. On the death of the sole tenant under a residential tenancy agreement, either the landlord or the legal representative of the tenant may give a termination notice to the other person.
2. The termination notice may specify a termination date that is before the end of any fixed term of the residential tenancy agreement if it is a fixed term agreement.
3. The Tribunal may, on application by a landlord or the legal representative



of the deceased tenant, make a termination order if it is satisfied that a termination notice was given in accordance with this section and that vacant possession of the residential premises has not been given as required by the notice.

4. The legal representative of a deceased tenant who is given a termination notice by the landlord may give vacant possession of the residential premises at any time before the termination date specified in the termination notice.
5. The estate of the deceased tenant is not liable to pay any rent for any period after the legal representative gives vacant possession of the residential premises and before the termination date.

If the tenant was a co-tenant, the surviving co-tenants are given the right

to vacate the premises or to continue the tenancy under section 78 of the Act which states:

1. On the death of a co-tenant leaving one or more other cotenants under a residential tenancy agreement, the remaining co-tenants may continue the tenancy or give the landlord a termination notice that has a termination date not earlier than 21 days after the date on which the notice is given.
2. If a tenancy is continued under this section, the remaining co-tenants are taken to be the only tenants under the residential tenancy agreement on and from the death of the deceased tenant.
3. This section applies whether or not

the fixed term of the residential tenancy agreement has ended if it is a fixed term agreement.

Obviously, this is a situation that may be quite sensitive and emotional for any tenant to have to endure and the understanding of both the agent and the landlord are essential in ensuring any co-tenants are given the correct legal information and the time to make an informed decision about which of the options they wish to take. As a property manager, you will obviously also need to consider the viability for the remaining co-tenants to remain in the property

from the perspective of affordability.

And remember, there is no penalty (break lease fee) for a co-tenant to break a lease when a co-tenant has passed away.

This would need to be a sensitive conversation with the remaining co-tenants and if it is identified that they will have difficulty in meeting the rent payments, then you will need to obtain instructions from your landlord.

Rosy Sullivan
Director | College Principal



Supervision Guidelines

Obtain a working document to meet your property agency requirements in NSW

Package includes:

- Customisable Word File
- Excel spreadsheets

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UPCOMING CPD WEBINARS

3 HOUR COMPULSORY CPD

Sales & Leasing

MON
22ND
MAR

3 HOUR ELECTIVE CPD

Property Sales

SUN
21ST
MAR

New CPD courses for the 2021/2022 year will be released on Tuesday 23rd March. Please check our website.

<https://acop.edu.au/cpd/>

Please note: All Webinars will be held via Zoom and run from 9am - 12pm unless stated otherwise.



UPCOMING CERTIFICATE OF REGISTRATION FACE TO FACE COURSES

ASSISTANT AGENT - CERTIFICATE OF REGISTRATION

Real Estate and Stock & Station Sydney CBD	6TH -9TH APRIL
Real Estate and Stock & Station Sydney CBD	3RD -6TH MAY

Units taken from nationally accredited training qualifications from the CPP41419 Certificate IV in Real Estate Practice.

Strata Management Sydney CBD	21ST -24TH JUNE
Strata Management Sydney CBD	16TH -19TH AUGUST

Units taken from nationally accredited training qualifications from the CPP40516 Certificate IV in Strata Community Management.



From the office

We are sliding into the finish line with the NSW Fair Trading deadline for licensed and certificated agents to complete their CPD requirements. We thought there would be a rush at the end – we didn't quite realise it would be a stampede.

We have been running CPD face-to-face classes all over NSW regional and metropolitan venues for the past fortnight and we now just have webinars and online options available right up until 11.59pm on Monday evening. All of the additional webinars, face-to-face classes and the online processing, has meant that our trainers are working around the clock – as too are our team of admin experts who are working seven (7) days a week for past month and early mornings and late evenings in the endeavour to meet everyone's needs for their CPD needs.

And with all the extra work with the CPD deadline, we have had yet another new team member commence with the College. John is an experienced administrator from international colleges and brings with him a wealth of student support experience. What a time to join ACOP amidst the madness and mayhem of this week. Talk about a baptism of fire.

Cakes – well they've been a bit light on in the last few weeks, but we have finished the fortnight on a high with birthday cakes for our College Principal Rosy and one of our newest team members, Jenn. They have birthdays one day apart and shared the celebrations. In terms of celebrating, we are planning a big celebration for Tuesday 23rd March to mark the end of one CPD and the start of the new CPD for property agents in NSW. I'm sure that this celebration calls for cake and champagne – fingers crossed. Bring on the new training topics that will be ready for students as of Wednesday 24th March.

UPCOMING LICENCE FACE TO FACE COURSES

PROPERTY LICENSING

Commercial Sales & Leasing SYDNEY CBD	3 RD - 4 TH JUN
Property Sales SYDNEY CBD	30 TH MAR - 1 ST APR
Stock & Station Agency Practices SYDNEY CBD	31 ST MAY - 10 TH JUN
Strata Management Agency Practices SYDNEY CBD	27 TH - 29 TH APR
Auctioneering SYDNEY CBD	15 TH - 16 TH APR
Property Mgmt Business Development & NCAT SYDNEY CBD	13 TH - 14 TH MAY

PROPERTY LICENSING

Financial Management (Strata) SYDNEY CBD	13 TH - 14 TH JUL
Trust Accounting + Insurance SYDNEY CBD	FRI 30 TH APR
Trust Accounting SYDNEY CBD	24 TH - 25 TH MAY
Property Management SYDNEY CBD	24 TH - 26 TH MAR
Business Broking SYDNEY CBD	10 TH - 11 TH MAY

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

UPCOMING FINANCE & MORTGAGE BROKING FACE TO FACE COURSES

Certificate IV in Finance & Mortgage Broking SYDNEY CBD	17 TH - 19 TH MAY
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Diploma of Finance & Mortgage Broking Management <i>(Upgrade Program - Must hold Certificate IV in Finance & Mortgage Broking)</i> SYDNEY CBD	20 TH - 21 ST MAY
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Units taken from nationally accredited training qualifications from the FNS Financial Services Training Package.

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