



## Abandoned boarding house tenancy

Sometimes tenants leave a property with rent owing and without giving notice. When this happens the tenancy is considered to be abandoned.

Normally the landlord wants to get into the property as soon as possible to re-let it. While this is understandable, the law sets out a procedure that must be followed to protect both the tenant and landlord.

It is an unlawful action for a tenant to abandon a tenancy without reasonable excuse. Exemplary damages of up to \$1000 can be awarded by the Tenancy Tribunal.

### What do I do if I think my tenant has abandoned the tenancy?

If you think your tenant has abandoned the tenancy, contact them. If they haven't abandoned the property, they will appreciate you checking before taking any other steps.

If they have abandoned the property and you can contact them, ask them to confirm in writing that they are returning possession of the property to you, so you can go into the property immediately. You should also try to arrange for the tenants to return the keys to you.

### What if I can't find the tenant?

Remember, there are two conditions that must be satisfied for a property to be considered abandoned:

1. The rent must be in arrears. It is not enough that the rent is not in advance as much as it should be.
2. There must be reasonable grounds to think that the tenants have left and are not intending to come back.

If these conditions are met, you should apply to the Tenancy Tribunal to have the tenancy terminated.

### Entering the property

Before you enter the property, you must give notice of your intention to inspect the property. Even though the tenant may not be at the property any more, you must give 24 hours notice to advise them that you will be entering the premises to determine if the tenancy has been abandoned. This notice should be placed on the door of the boarding house room. You cannot enter the property for at least 24 hours after placing the notice on the door.

Once you have inspected the room and believe that the tenancy has been abandoned you must give the tenant a further 48 hours notice that the tenancy will be terminated. This notice must be placed on the door of the room and must include the time and date that the tenancy will end.

A landlord's right to enter a tenant's boarding house room is strictly limited under the Residential Tenancies Act 1986. The Tenancy Tribunal could order a landlord to pay exemplary damages to the tenant of up to \$1000 for entering a tenant's room unlawfully.

You can dispose of any food or perishable goods immediately.



**If the tenancy has been abandoned, you can apply to the Tenancy Tribunal for any rent arrears, compensation for damages or other orders that might be appropriate.**

## **Completing the Tenancy Tribunal application form**

To avoid delay, make sure you complete all sections of the Tenancy Tribunal application form. You must provide details of the tenancy as well as contact details for both landlord and the tenant.

You will also be asked to specify the orders you want the Tribunal to make. **Tick the boxes for termination of tenancy and rent arrears.**

You can also request an order for:

- disposal of abandoned goods
- rent owing to date of termination
- rent in lieu of notice (for periodic tenancy)
- release of the bond if the arrears are not paid
- compensation for cleaning/repairs (if applicable).
- Exemplary damages for abandoning the tenancy

The application form asks you to state the reason for your application. Make sure you state:

- when the rent arrears began
- amount of rent that is owed (do not include rent in advance)
- brief details of evidence of abandonment
- specific details of any claim you want to make for compensation for damages or cleaning (if applicable).

### **Other information to include with your application**

- A copy of your Tenancy Agreement
- A rent arrears summary, clearly showing the missed rent payments.

## **Submitting the application**

You can apply to the Tenancy Tribunal online at [www.dbh.govt.nz](http://www.dbh.govt.nz) and pay the \$20.44 application fee with a Visa or MasterCard.

You can also complete a paper application form and send it by:

- mail to PO Box 50546, Porirua
- fax to 04 237 1058
- email to [ttapplications@dbh.govt.nz](mailto:ttapplications@dbh.govt.nz)

You must pay the \$20.44 application fee before submitting your application. You can pay at any Westpac branch (by eftpos, cash or cheque) or at the Department of Building and Housing in Auckland, Manukau, Hamilton, Wellington or Christchurch (eftpos only).

You will need to provide the Tribunal with evidence that the rent is in arrears. You can find rent summary templates at [www.dbh.govt.nz](http://www.dbh.govt.nz)

## **Why do I need a Tribunal Order?**

It is an offence for a landlord to take possession of a property without the tenant's consent or a court order. The Tribunal Order will also protect you if the tenants were intending to come back.

## **Where can I find more information?**

For tenancy advice and information call 0800 TENANCY (0800 83 62 62), visit our website [www.dbh.govt.nz](http://www.dbh.govt.nz) or email us at [info@dbh.govt.nz](mailto:info@dbh.govt.nz)