



Abandoned premises

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.

Check out the information sheet '*Making an application for an Order of the Tenancy Tribunal: information for landlords*' at <http://www.dbh.govt.nz/tribunal-info-for-landlords> for more information about how to make an application to the Tribunal.

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 48 hours notice, plus the appropriate service time (4 working days if you serve the notice by post or 2 working days if you deliver it to the letterbox by hand or attach it to the door of the property). After the service time expires you can enter the property, inspect it and secure the premises.

A landlord's right to enter a tenancy 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 tenancy unlawfully

You can't dispose of any of the tenant's goods until you have obtained a disposal order from the Tenancy Tribunal. Don't remove any of the tenant's goods unless absolutely necessary to protect them.



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**, **Rent arrears**, and **Refund bond** (if applicable).

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

- the amount of rent owed (do not include rent in advance)
- the tenant has abandoned the tenancy. Provide an explanation why you think the tenants have left and are not intending to come back

If cleaning or repairs will need to be done once the Tenancy Tribunal terminates the tenancy, you can state on your application that you would like the Tribunal to grant a '**continuance**' to hear the additional costs once they have been established. If the Tribunal grants a continuance, it means you can return to the Tribunal for a second hearing, at no extra cost, to claim for any cleaning or repairs you have had to do.

Supporting documents to provide with your application

It is **very important** that copies of the following documents are provided:

- A copy of your **Tenancy Agreement**
- A **rent arrears summary**, clearly showing the unpaid rent
- Any documents sent to the tenant advising them of the issue(s)

Check out the information sheet '*Making an application for an Order of the Tenancy Tribunal information for landlords*' for more information about what documents you need to provide when applying.

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 or email us at info@dbh.govt.nz