

NOTICE TO VACATE

CAN A LANDLORD MAKE ME LEAVE MY HOME WITH A NOTICE TO VACATE?



IMPORTANT: A NOTICE TO VACATE IS NOT AN EVICTION ORDER AND CANNOT BE USED AS AN EVICTION ORDER

A landlord or their agent or attorney generally gives a notice to vacate when a lease is cancelled. It tells the tenant the date by which they should leave the landlord's property.

The notice period given is only lawful if it gives the tenant a reasonable amount of time to leave the property. This should NOT be less than one month.



A tenant who is given less than one month notice to vacate may lodge a complaint against their landlord at the Rental Housing Tribunal for unlawful notice to vacate.

The landlord cannot launch an eviction application in court until the complaint has been dealt with by the Rental Housing Tribunal.

WHAT HAPPENS IF A TENANT DOESN'T VACATE?

If the tenant stays in the landlord's property after the date by which they are supposed to vacate, in terms of a lawful notice to vacate, then the tenant will be considered in law to be an "unlawful occupier."

It is only after a tenant becomes an unlawful occupier that the landlord has a right to bring an application in court to evict the tenant.

IMPORTANT: THE LANDLORD CANNOT ACT ILLEGALLY TO FORCE YOU TO LEAVE.

The rights of unlawful occupiers are set out in the Prevention of Illegal Eviction and Unlawful Occupation of Land Act (PIE).

For example, the landlord cannot turn off electricity, threaten to harm you, or lock you out of your home.

A landlord needs an eviction order to evict an unlawful occupier. To get an eviction order from court, they must follow the lawful eviction application process. You will know this has started if you receive a Section 4 Notice of Motion.

IF THE LANDLORD STARTS THE COURT PROCESSES FOR EVICTION, IMMEDIATELY SEEK LEGAL ADVICE.