

H18. Abandonment Policy & Procedure

Title: Abandonment Policy

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Purpose:

This policy aims to set out HAIL's approach when a tenant abandons their tenancy or when it is uncertain whether a tenant has abandoned their tenancy.

This policy does not deal with situations where a tenancy is terminated by agreement, by giving the required period of notice or by the passage of time (for a fixed term tenancy).

1. Policy

1.1 A tenancy will usually come to an end when (Residential Tenancies Act 2004 – 2019):

- a) by agreement between the landlord and the tenant,
- b) by giving the required period of notice, or
- c) by the passage of time (for a fixed term tenancy)

However, HAIL recognises that a tenancy may also come to an end if the tenant abandons their tenancy, for example a tenant may vacate the dwelling without giving notice or a tenant might not give the correct period of notice.

There may also be situations where a tenant leaves the dwelling unoccupied for a time without explanation and it may therefore be uncertain whether the tenant has abandoned the tenancy or intends returning to the property.

1.2 Under Section 37 of the Residential Tenancies Act 2004, a Part 4 tenancy is deemed to have been terminated by the tenant if:

a) The tenant has vacated the dwelling;

leaving the rent in arrears (for any period); and
having served a notice of termination but without giving the required period of notice.

b) The tenant has vacated the dwelling;

Leaving the rent in arrears for at least 28 days; and
Without serving any notice of termination

Where a tenancy is abandoned pursuant to Section 37, the tenant may still be liable for any arrears of rent which have already accrued which would have accrued had the required period of notice been given.

It is HAIL's policy that the Head of Housing & Property Management and/or the CEO will decide on a case by case basis whether to pursue arrears of rent when a tenancy is abandoned.

1.3 HAIL also recognises that the tenancy agreement contains various covenants and conditions with which the tenant must comply.

The following clauses are relevant in the context of abandonment; Clause 2.3 & 2.5 of the tenancy agreement, the tenant must;

a) use the dwelling as their ordinary place of residence; and

b) notify HAIL of any absence from the dwelling of more than 14 days in a row

Under Clause 2.3 & 2.5 of the tenancy agreement, the tenant must not leave the dwelling unoccupied for more than 30 days in a row without getting prior permission from HAIL, otherwise HAIL will class the property as being abandoned.

1.4 The procedures around the following different types of abandonments are set out in Section 8 of the Maintenance Manual:

- Responding to an abandoned tenancy where the tenant has served a notice of termination but without giving the required period of notice



- Responding to a suspected abandoned tenancy with rent in arrears for at least 28 days where no notice of termination has been served
- Responding to a suspected abandoned tenancy with no rent arrears and no notice of termination
- Partial Abandonment (Joint to Sole) where one of the tenants has left the property and has not surrendered their tenancy.
- Unauthorised Occupiers who occupy a HAIL property and have not been declared to HAIL and have not received permission to reside there.

1.5 Housing Officers have the responsibility for the management of any abandonments and have to refer to the Maintenance Manual for all procedures around same. All Notices of termination will be approved and signed by the CEO following the receipt of a tenancy report.