

DOMESTIC VIOLENCE AND RENTING

KNOW YOUR RIGHTS

If you are a tenant renting in NSW, and you are experiencing domestic violence by a person you have, or did have, a domestic relationship with, you have rights.

IF YOU WANT TO LEAVE YOUR RENTED HOUSE

If you are renting and you are experiencing domestic violence, you can leave and have your name removed from the lease immediately and without penalty, by giving your landlord and all other tenants a “Domestic Violence Termination Notice”.

A sample Domestic Violence Termination Notice is available at www.tenants.org.au/resources/domestic-violence.

The Domestic Violence Termination Notice you give to your landlord must attach one of the following:

- a certificate of conviction; or
- a provisional, interim or final Apprehended Domestic Violence Order (ADVO), including one from a state other than NSW or from New Zealand; or
- a family law injunction; or
- a **declaration** by a 'competent person' who is a:
 - registered health practitioner;
 - registered social worker;
 - an employee of a government agency that provides child welfare services;
 - an employee of a non-government agency receiving government funding to provide domestic violence or sexual assault services or refuge or emergency accommodation; or
 - a Victims Services approved counsellor.

WHAT IS A DECLARATION?

A 'competent person' can write a declaration that you, or your child, is a victim of domestic violence. A declaration form is available at www.fairtrading.nsw.gov.au. The declaration includes the names of the people experiencing domestic violence and the alleged perpetrators of the violence.

The declaration does not include details of the domestic violence.

A declaration does not require that the perpetrator of violence be charged with a domestic violence offence and there does not need to be an ADVO in place.

TIP: WE RECOMMEND YOU TAKE THIS FACTSHEET WITH YOU WHEN YOU SEE A COMPETENT PERSON

WHAT IS A DOMESTIC RELATIONSHIP?

According to the *Crimes (Domestic and Personal Violence) Act 2007*, a person has a **domestic relationship** with another person if they are/were:

- married, in a de facto or intimate relationship whether or not it is of a sexual nature;
- living together in the same house;
- living together in a residential facility;
- relatives by birth, marriage or adoption;
- in the case of an Aboriginal or Torres Strait Islander, part of the same extended family or kinship group;
- in a relationship involving his or her dependence on the ongoing paid or unpaid care of the other person;
- married to, or in a de facto or intimate relationship with the same person, eg. a woman's ex-partner and current partner are in a domestic relationship with each other even if they have never met.

WHAT IS DOMESTIC VIOLENCE?

Domestic violence is not just physical or sexual abuse. Domestic violence is a pattern of behaviour that is dominating or controlling and causes a person to feel fear for their own or others' safety. It can involve:

- emotional abuse such as putting you down, making you feel bad about yourself, calling you names;
- intimidation such as making you feel afraid by using looks, actions, gestures, destroying property;
- isolation such as controlling what you do, who you see and talk to, and where you go;
- economic abuse such as stopping you from getting a job, making you ask for money;
- threats such as threatening to do something to hurt you, threatening to leave.



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WHO IS A COMPETENT PERSON?

The following can be a 'competent person':

- your GP;
 - your psychologist;
 - your psychiatrist;
 - a social worker;
 - a DCJ caseworker
 - your Victims Services approved counsellor
- an employee of a service receiving government funding, to provide services relating to:
 - domestic violence;
 - sexual assault;
 - refuge or emergency accommodation

For a more comprehensive list of registered health workers see the NSW Fair Trading website.

BAN ON BLACKLISTING

Your landlord or real estate agent cannot blacklist you by putting your name on a bad tenant database if you have ended your tenancy by giving a Domestic Violence Termination Notice.

WHAT IF I HAVE ALREADY LEFT THE PROPERTY?

You can still end your lease in circumstances of domestic violence even after you have left the property. However, your name will stay on the lease and you will be responsible for the rent up until you give the Domestic Violence Termination Notice to your landlord.

IF YOU WANT TO STAY IN YOUR RENTED HOUSE

If you have a final ADVO stopping the perpetrator of violence from coming to the rental property, you can stay living in the property, but you will be responsible for paying the rent if you are the only remaining tenant in the property.

Alternatively, if you and the perpetrator of violence are both on the lease, you can make an application to the NSW Civil and Administrative Tribunal (**NCAT**) to ask to end the perpetrator's tenancy.

DAMAGE TO THE PROPERTY

You will not be responsible for damage to your rental property if you can show it was caused by a perpetrator of violence during a domestic violence offence.

You should write down when and how the damage was caused and take a photo of the damage. You might need this information if your landlord asks for money to pay for the damage.

WHERE TO GET FURTHER ADVICE

Call **LawAccess NSW** on **1300 888 529** for legal help.

This factsheet is valid as at 11 December 2020.

