

Terminating a tenancy in circumstances of domestic violence

Purpose of this declaration

Under the *Residential Tenancies Act 2010*, a tenant can terminate their residential tenancy agreement without being penalised if the tenant is in circumstances of domestic violence.

To terminate the agreement, the tenant must give the landlord a domestic violence termination notice together with one of the four documents listed under the Act for this purpose. One of those documents is a signed declaration from a medical practitioner that the tenant is a victim of domestic violence perpetrated by the “relevant domestic violence offender” during the currency of the residential tenancy agreement. This completed declaration may be used instead of a Domestic Violence Order, a Family Law Injunction or a Certificate of Conviction (these documents are the other 3 documents listed under the Act).

A “relevant domestic violence offender” must be the tenant’s co-tenant or former co-tenant, or an occupant or former occupant of the tenant’s residence or a person with whom the tenant has or has had a domestic relationship. For this reason, and to ensure that the rights and obligations of a co-tenant (if any) are not impacted, the tenant has to identify the relevant domestic violence offender and the name of that person has to be recorded in this declaration.

Note: The use of the term “relevant domestic violence offender” is only to establish if the tenant is in circumstances of domestic violence under the Act. It does not mean that the person the tenant identifies as the perpetrator of the domestic violence has been convicted of a domestic violence offence.

Who can make this declaration

You can only make this declaration if:

- you are a medical practitioner registered under the *Health Practitioner Regulation National Law (NSW)* in the medical profession, and
- you have consulted with the tenant.

How to complete this declaration

You must complete all parts of this form.

You are authorised to collect, use or disclose personal information about a relevant domestic violence offender that you require to for the purposes of making this declaration.

1. Before you complete this form, you will need to assess if, in your professional opinion, the tenant is a victim of domestic violence that occurred during the tenant’s current tenancy.
2. **You are not required to prove that an incident of domestic violence has taken place.** Your assessment should be based on your professional observations and the information you obtain during your consultation.
3. Once you have assessed the tenant and their circumstances, you should complete this form by:
 - (a) entering the details of the tenant, and
 - (b) entering the name of the relevant domestic violence offender, based on the information the tenant provides you, and
 - (c) selecting the type of relationship between the tenant and the relevant domestic violence offender, based on the information the tenant provides you.
4. Give the completed declaration to the tenant and keep a copy for your records.
5. For further information on how to complete this form go to www.fairtrading.nsw.gov.au.

WARNING: Knowingly providing false or misleading information in connection with this declaration may be an offence under section 105H of the *Residential Tenancies Act 2010*, for which a maximum penalty of 2 years imprisonment or 100 penalty units, or both, applies. This offence can apply to the tenant, the medical practitioner, or both.

Note for medical practitioners: It is NOT an offence to make a declaration based on information that you believed to be true at the time of making the declaration. You are NOT required to prove that an incident of domestic violence has taken place.

PART 1: Details of tenant seeking to terminate the tenancy / be declared a victim of domestic violence

Family name:

Given names:

Address of the rented residential premises:

Suburb:

State:

Postcode:

Phone number (include area code if applicable) or the name and contact details of a nominated person (OPTIONAL):

Note: A separate form needs to be completed, and declaration made, for **each** tenant seeking to be declared a victim of domestic violence.

PART 2: Details of relevant domestic violence offender and relationship with tenant

1. Who is the person **the tenant has identified** as the perpetrator of the domestic violence?

Full name:

2. Is the person named above (in question 1 in this Part) a co-tenant/former co-tenant or an occupant/former occupant of the residential premises specified in Part 1? Yes No

If the answer to question 2 is “No”, the following question MUST be completed.

3. What is the relationship the tenant has or had with the person named above (“the relevant domestic violence offender”)? [Select the description of the most recent relationship and cross out “are” or “were” as applicable]

The tenant and the relevant domestic violence offender are/were:

- married to each other
- in a de facto relationship with each other
- in an intimate personal relationship with each other, whether or not the relationship is/was sexual
- living in the same household
- living as long-term residents in the same residential facility at the same time as each other (excluding facilities that are correctional centres or detention centres)
- in a relationship involving the tenant’s dependence on the ongoing paid or unpaid care of the tenant by the relevant domestic violence offender
- relatives
- in the case of Aboriginal persons or Torres Strait Islanders—in an extended family or kinship relationship according to the Indigenous kinship system of the culture of either the tenant or the relevant domestic violence offender
- married to the same person at different times (even if they have not met)
- in a de facto relationship with the same person at different times (even if they have not met)
- in an intimate personal relationship with the same person (even if they have not met)

If

- the answer to question 2 in this Part is “No”, and
- the tenant and the person named above are **NOT in any of the relationships listed above** (in question 3 in this Part),

then the person the tenant has identified in Part 2 as the perpetrator of the domestic violence is NOT the relevant domestic violence offender for the purposes of this declaration. **This means that Part 3 cannot be completed.**

PART 3: Declaration by medical practitioner

I declare that:

I personally consulted with the **tenant** in my professional capacity as a medical practitioner on (date of consultation):

Date (dd/mm/yyyy)

On the basis of information obtained from the tenant, and observations made in the course of that consultation, I have formed the view that (name of tenant):

is a victim of domestic violence perpetrated by the person named by the tenant in question 1 of Part 2, being the relevant domestic violence offender on/during the period [cross out the words that are not applicable]:

(approximate date on which, or period during which, the domestic violence was perpetrated).

Full name:

Signature:

Registration number:

Date (dd/mm/yyyy):

Please keep a copy of this form and all attachments for your records.

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