



Deceased Tenants Policy

1. Purpose & Objectives

This document defines Homes North's approach to ending a tenancy where a tenant has passed away.

2. Scope

This policy applies to Homes North tenants and employees.

3. Definitions

- **Tenant** – the person who signs the Residential Tenancy Agreement with Homes North
- **Household members** – all people living in the home regardless of age or relationship

4. Policy statement

Homes North will manage ending a tenancy where a tenant has passed away in a timely and compassionate manner, taking into account the individual circumstances and the requirements of the Residential Tenancies Act 2010.

4.1 Death of a Sole Tenant

When Homes North is notified or becomes aware that a tenant is deceased, steps will be immediately taken to secure the property by ensuring it is locked.

Access to the property will be provided only to the verified legal personal representative of the deceased.

A range of administrative actions will be implemented to manage the deceased persons' tenancy. Where a tenant dies, the tenancy must be formally ended either through:

- Relinquishment of the tenancy by the legal personal representative of the deceased (usually by returning the keys of the property to Homes North), or by
- Termination notice issued by Homes North in accordance with the *Residential Tenancies Act 2010*

Where relinquishment of the tenancy is expected, Homes North will provide reasonable opportunity to the person's legal personal representative to remove any goods and clean the property before issuing a notice of termination to end the tenancy.

Rent is payable up to the termination date unless *'the legal personal representative gives vacant possession of the residential premises'* before the termination date – rent is then payable up to the date of vacant possession. [section 108 (5) of the Residential Tenancies Act 2010 (NSW)].

4.1.1 Death of a Sole testate occupant

Where Homes North determines the deceased tenant has a will and/or is informed of this by the legal personal representative, the following action will be taken:

- After the legal personal representative gives vacant possession of the property:
 - Rent and non-rent balances will be adjusted up to and including the day before vacant possession of the property was given.
 - If there is a credit balance, the balance will be forwarded to the executor of the estate.
 - If there is a debit balance, the debit will be referred to the executor of the estate for payment.
- If the property is not returned to Homes North by the legal personal representative within fourteen days, Homes North may take action through the **NSW Civil & Administrative Tribunal (NCAT)** to seek possession in accordance with the Residential Tenancy Act 2010.
 - Rent and non-rent balances will be adjusted up to and including the termination date.
 - If there is a credit balance, the balance will be forwarded to the executor of the estate.
 - If there is a debit balance, the debit will be referred to the executor of the estate for payment.

4.1.2 Sole intestate occupant

Where Homes North determines the deceased tenant did not have a valid will and there is no executor the following action will be taken:

- Liaise with the NSW Police to ascertain if the tenant has any next-of-kin.
- Advise the Public Trustee, who will manage the tenant's affairs in relation to wills, probate and administration of the deceased estate.
- Seek possession of the premises through the NSW Civil and Administrative Tribunal (NCAT).
- Adjust the rent and non-rent balances up to the termination date.
 - If there is a credit balance, the balance will be forwarded to the Public Trustee.
 - If there is a debit balance, the debit will be referred to the Public Trustee for payment.
- Where there are no next-of-kin and goods have been left in the property, Homes North will dispose of the goods in accordance with the Residential Tenancies Act 2010.

4.2 Other approved household members or co-tenants

Where there is a co-tenant remaining in the property:

- An amended lease is to be signed for the existing tenant only

- A copy of the deceased persons' death certificate or discharge notice from the hospital will be requested by HOMES NORTH to inform the NSW Rental Board
- Household rent will be recalculated (and usually backdated) to the date of the persons' death

Where the tenancy has ended and there are remaining occupants in the property (who are not co-tenants), Homes North will comply with the procedures in the *Residential Tenancies Act 2010*:

- A notice of termination will generally be issued by HOMES NORTH within 7 days
- Advice will be provided to those persons about their housing options
- Termination orders may be sought from the NSW Civil & Administrative Tribunal

4.5 End of tenancy costs

Housing Trust will assess whether to recover costs for damages or rent arrears or water usage from a deceased persons' estate.

4.6. Goods remaining in the premises

When a tenant dies, Housing Trust will comply with the 'abandoned goods' requirements of the *Residential Tenancies Act 2010*. The key elements of these requirements include:

- Immediate removal of perishable goods and rubbish
- Issuing a disposal notice stating that goods may be removed from the premises within 14 days
- Removal and storage of 'personal documents' for a period of 90 days
- Disposal of goods in accordance with the Act

4.7 Consideration of wellbeing of other tenants and staff

The death of a tenant will invariably cause distress to other tenants. Neighbours and staff may also be affected. In severe circumstances Homes North's Operations Manager may consider the provision of counselling for affected tenants and neighbours. Affected staff will be encouraged to seek assistance through our Employee Assistance Program.

4.6 Authority

Approval for succession of tenancy where the tenant has passed away will be considered by the Homes North Operational Manager.

This policy is subject to change from time to time at the discretion of Homes North. Where an individual is observed to not be working within the scope of this policy, the breach will be addressed by a team leader.

5. Responsibilities

It is the responsibility of the:

Executive Officer to ensure this policy and associated procedures are applied and committed to by the Senior Management Team.

Senior Housing Managers & Asset Manager to provide the team with timely policy-related support and guidance, to ensure familiarity with this policy and related procedures, to commit to following them accordingly and where relevant, promote the policy to their team.

Employees to ensure they comply with this policy, be responsible for their own behaviour and if required, attend relevant training as provided by the company from time to time.

6. Where to get more information

Contact Homes North on 67723155 or armidale@homesnorth.org.au

Related policies

- Succession of Tenancy Policy
- Appeals Policy
- Appeals Factsheet

National Community Housing Standards

1.4 Ending Tenancies

Other standards

Legislation or other requirements Residential Tenancy Act (2010)

Policy Information

Policy number: 1.4.1\1 Version: V2

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