

# LANDLORD AND TENANTS' RIGHTS IN FLOOD DAMAGED PROPERTIES

- If a property has been affected by a natural disaster, such as a flood, bushfire or storm, tenants and landlords have certain rights and responsibilities.
- If the property is destroyed or becomes totally or partly uninhabitable, the landlord and tenant can mutually agree to end the tenancy (e.g on the grounds that the agreement is 'frustrated').
- If no mutual agreement is possible, the tenant or landlord can give a written termination notice to end the tenancy on the basis the property is uninhabitable.
- The termination notice may end the residential tenancy agreement on the date that the notice is given – there is no Notice provision.
- The termination notice may specify a termination date that is before the end of the fixed term of the residential tenancy agreement if it is a fixed term agreement.
- The tenant can move out temporarily and return once repairs have been carried out. The landlord is not obliged to find or pay for the tenant's temporary accommodation.
- If the property is only partly uninhabitable, the tenant can choose to stay in the property while repairs are being carried out. Tenants should only consider doing this if the damage is relatively minor and there is no ongoing safety risk.
- The tenant and landlord can formally end the agreement and re-sign a new agreement after the repairs are complete. Tenants should be aware that a higher rent could be included in the new agreement.

## Payment of rent

- The tenant remains responsible for the payment of rent until either the agreement is terminated, or the tenant and landlord agree to a reduction in rent because the property was partially or totally uninhabitable.

## Damage to belongings

- Tenants are responsible for maintaining insurance on their belongings within the rented property. A landlord is not obliged to compensate the tenant for any damage to the tenant's furniture or personal belongings from a natural disaster.

## Disputes

In the first instance contact your landlord or managing agent. Any tenancy related disputes following a natural disaster can be taken to the Tribunal. Fair Trading is unable to intervene where a tenant has been issued with a Notice of Termination. NCAT are able to make an enforceable order regarding these issues.

in the event that you are not satisfied with the outcome provided by the agency you may have the option of lodging an application with the NSW Civil & Administrative Tribunal (NCAT) for a determination on whether the agreement is considered frustrated or if you are eligible for rent reduction. The Tribunal provides an inexpensive and effective means of resolving consumer disputes and is capable of making enforceable orders.

Further details, including an application form and fee schedule, can be obtained from the Tribunal website at [http://www.ncat.nsw.gov.au/Pages/cc/Applications/ccd\\_forms.aspx](http://www.ncat.nsw.gov.au/Pages/cc/Applications/ccd_forms.aspx)

Applications can be lodged at any NCAT Registry Office for urgent hearing, Service NSW Centre or online at: [http://www.ncat.nsw.gov.au/Pages/apply\\_to\\_ncat/apply\\_online.aspx](http://www.ncat.nsw.gov.au/Pages/apply_to_ncat/apply_online.aspx)

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