

## Share housing

People in share housing are generally covered by the *Residential Tenancies Act 2010* and *Residential Tenancies Regulation 2010* but the law can be unclear. This factsheet explains some legal issues for people sharing housing in NSW.

### Legal status of people in share housing

People in share housing usually have their own bedroom and share the rest of the premises. Your rights and obligations will depend on your legal status. You may be:

- a co-tenant
- a head-tenant
- a sub-tenant, or
- a boarder or lodger.

Co-tenants, head-tenants and sub-tenants have rights and obligations under the *Residential Tenancies Act 2010*. Boarders and lodgers do not – see Factsheet 14: *Boarders and lodgers*.

#### Co-tenant

Your name and the names of other tenant/s are on the residential tenancy agreement for the premises. You share rights and obligations with the other co-tenant/s.

#### Head-tenant

You are a tenant (your name is on the residential tenancy agreement for the premises), you live at the premises and sub-let part of the premises to another person under a separate written agreement. That person is a sub-tenant.

You are a landlord in relation to the sub-tenant. For information about your rights and obligations as a head-tenant, contact NSW Fair Trading on 133 220 or see [www.fairtrading.nsw.gov.au](http://www.fairtrading.nsw.gov.au).

#### Sub-tenant

You are sharing with a tenant (their name is on the residential tenancy agreement for the premises) who has sub-let part of the premises to you under a separate written agreement. That person is a head-tenant.

You have the rights and obligations of a tenant in relation to the head-tenant – they are your landlord.

#### Boarder or lodger

You are a boarder or lodger if you rent part of the premises from:

- a tenant who also lives there, or
- the owner of the premises, who also lives there

and they keep control over the whole premises (including the part you rent). They are your landlord.

#### None of the above

If none of the above applies to you, contact your local Tenants Advice and Advocacy Service (TAAS) to discuss your situation.

### Changing occupants – transfer or sub-letting

A tenant may transfer their tenancy under the residential tenancy agreement, or sub-let part of the premises, to another person if the landlord gives written consent. If at least one of the original tenants on the residential tenancy agreement remains, the landlord must not ‘unreasonably’ withhold consent.

If the landlord withholds consent, you can apply to the Consumer, Trader and Tenancy Tribunal (CTTT) for an order allowing you to transfer (or sub-let). The CTTT will decide if the landlord’s failure to consent is unreasonable.

The landlord can withhold consent however, on some specific grounds (e.g. to comply with planning laws).

See Factsheet 18: *Transfer and sub-letting* for more information.

### Rent receipts

Whatever your tenancy status, you should be given a receipt when you pay rent.

### Bond money

Also see Factsheet 03: *Bond*.

#### Change of co-tenants

If there is a change in the tenants whose names appear on the bond lodgement form, fill in a ‘Change of Shared Tenancy Arrangement’ form (from NSW Fair Trading – NSWFT). Have it signed by the person/s leaving, the person/s moving in and the landlord/agent and return it to NSWFT.

If you do not fill out a form when you move in, at least get a receipt from whoever you paid the bond to.

Also try to get a statutory declaration from the person who has moved out stating that they got their bond back. This may help you claim bond back if the tenancy agreement ends while you live there.

#### Bond claim by former co-tenant

On the request of a former co-tenant, the remaining tenant/s must pay back the bond paid by the former co-tenant – less any rent they owe or other reasonable costs – within 14 days of the request.

If the former co-tenant’s liabilities exceed the amount of bond they paid, or they were excluded from the

premises by a final apprehended violence order, the above does not apply.

If a former co-tenant disagrees about how the bond should be split at the end of the tenancy, they can apply to the CTTT to have the matter resolved.

### **Sub-tenant**

The head-tenant must deposit your bond money with NSWFT. They must also give you a receipt, unless details of the payment are recorded in your tenancy agreement.

### **Boarder or lodger**

Encourage the landlord to deposit your bond money with NSWFT (they are not required to by law). In any case, get a receipt for any bond money you pay.

### **Other occupants want you to leave**

#### **Co-tenant**

A co-tenant can apply to the CTTT for termination order to end the tenancy of another co-tenant. The CTTT may make a termination order if it is of the opinion that it is appropriate to do so in the 'special circumstances' of the case.

#### **Sub-tenant**

The head-tenant must give you a 90-day termination notice during a periodic agreement, or 30-day termination notice at any time before the end of a fixed-term agreement. See Factsheet 10: *Landlord ends agreement*.

#### **Boarder or lodger**

The landlord should give you 'reasonable' notice to vacate the premises (e.g. if you pay rent weekly, they should give you at least 7 days notice).

### **You want to leave**

See Factsheet 09: *You want to leave* for how to give a termination notice.

#### **Co-tenant**

If all co-tenants are leaving, they must jointly give the landlord a 21-day termination notice during a periodic agreement, or a 14-day termination notice before the end of a fixed-term agreement.

If one co-tenant is leaving, they can end their own tenancy under a periodic agreement by giving a 21-day termination notice to the landlord and each

other co-tenant. They cease to be a tenant under the tenancy agreement once they vacate the premises by the date in the notice.

### **Sub-tenant**

You must give the head-tenant a 21-day termination notice under a periodic agreement, or a 14-day termination notice before the end of a fixed-term agreement.

### **Boarder or lodger**

You should give the landlord 'reasonable' notice (e.g. if you pay rent weekly, give them at least 7 days notice). Put your notice in writing and keep a copy.

### **Paying bills**

If you have a contract with a phone, electricity or gas supplier, you must ensure the bills are paid.

If someone does not pay their share of the bills – except for electricity bills – you can take action in a Local Court to get the money back. See the chamber registrar at a Local Court, or contact a Community Legal Centre for advice.

### **Resolving disputes**

Except as mentioned above, the CTTT cannot deal with disputes between co-tenants. Try mediation through a Community Justice Centre.

A sub-tenant can apply to the CTTT to resolve certain kinds of disputes with their head-tenant. Contact your local TAAS for advice.

A boarder or lodger in dispute with their landlord should contact their local TAAS for advice.

### **Contacts and further information**

- *The Share Housing Survival Guide*: [www.rlc.org.au/sharehousing](http://www.rlc.org.au/sharehousing)
- NSW Fair Trading / Fair Trading Centres: phone 133 220, [www.fairtrading.nsw.gov.au](http://www.fairtrading.nsw.gov.au)
- Local Courts: phone 02 9287 7888, [www.lawlink.nsw.gov.au/lc](http://www.lawlink.nsw.gov.au/lc)
- Community Legal Centres: phone 02 9212 7333, [www.nswclc.org.au](http://www.nswclc.org.au)
- Community Justice Centres: free call 1800 990 777
- LawAccess NSW: phone 1300 888 529, [www.lawaccess.nsw.gov.au](http://www.lawaccess.nsw.gov.au)

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### **FURTHER HELP: Tenants Advice and Advocacy Services**

#### **Sydney**

- Inner 9698 5975
- Inner West 9559 2899
- South 9787 4679
- South West 4628 1678
- East 9386 9147
- West 8833 0911
- North 9884 9605
- North West 9413 2677

#### **Regional**

- Blue Mountains 1300 363 967
- Central Coast 4353 5515
- Hunter 4969 7666
- Illawarra Sth Coast 4274 3475
- Mid North Coast 6583 9866
- Northern Rivers 6621 1022
- Northwest NSW 1800 836 268
- Southwest NSW 1800 642 609

#### **Aboriginal**

- Sydney 9569 0222
- West NSW 1800 810 233
- South NSW 1800 672 185
- North NSW 1800 248 913
- Older persons 1800 131 310
- Website [www.tenants.org.au](http://www.tenants.org.au)
- NSW Fair Trading 133 220



This factsheet is intended as a guide to the law and should not be used as a substitute for legal advice. It applies to people who live in, or are affected by, the law as it applies in New South Wales, Australia.  
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