

As a tenant you have rights and responsibilities under the *Residential Tenancies Act 1987* (the Act). This fact sheet explains the law in Western Australia about abandoned property and goods and incorporates the changes made to the Act, which came into effect on 1 July 2013. Please note that while changes were made to the Act effective 1 July 2013, some of the old laws may still apply to you. If, for example, you entered into a lease prior to 1 July 2013, the old laws may still be valid. Accordingly we strongly encourage you to get appropriate legal/tenancy advice from your local tenancy service concerning the application of the law.

Abandoned Property and Goods

WHAT HAPPENS IF YOU ABANDON A PROPERTY?

If you stop paying rent, hand back the keys and permanently leave the rental premises during the term of the tenancy, this is called 'abandonment'. The agreement will terminate when you abandon the property. (See our [Break Lease fact sheet](#) for more information).

*In the
Residential
Tenancies Act
the **landlord** is
referred to as
the **lessor**.*

WHAT IF YOU LEAVE WITHOUT TELLING THE LESSOR?

If you want to abandon the property, you should tell the lessor in writing that you are abandoning (and from what date).

If you abandon the property and don't tell the lessor, the lessor will not know that the agreement has terminated or that the property is vacant. The lessor will not be able to take steps to secure the property. If the premises are damaged by third parties as a result, you might be liable for that damage. In addition, the lessor will likely suffer losses such as rental income, and in some cases those losses could be passed on to you.

If you leave the property temporarily but you do not abandon the property, and in the time that you are away, the lessor re-lets the property, then the lessor might have to pay you compensation. Similarly, the lessor has no right to re-enter the property unless you have abandoned. The Act provides a procedure for permitting the lessor to re-enter the premises to inspect and secure them if the lessor suspects on "reasonable grounds" that the tenant has abandoned the property.

NOTE: If you are going away for a long period of time, it is best to let the lessor know in writing so they do not think you have abandoned the property, and ensure your rent is paid whilst you are away.

LESSOR ENTERING THE PROPERTY

A lessor who believes on “reasonable grounds” that their rental property has been abandoned may give 24 hours' notice to enter for the purposes of inspecting and securing them. The notice must be given by leaving copies both at the rental property and at your last known place of employment (if applicable). It must be in a [Form 12: Notice to tenant of abandonment of premises](#). If you do not contact the lessor within 24 hours, then they can enter the property to inspect and secure it.

WHAT ARE “REASONABLE GROUNDS”?

The Act defines reasonable grounds as meaning that a tenant has failed to pay rent and at least one of the following has occurred:

- (a) Uncollected mail, newspapers or other material at the premises;
- (b) Neighbours or others have reported that the tenant has abandoned the premises;
- (c) The absence of household goods at the premises;
- (d) The disconnection of services (including gas, electricity and telephone) to the premises.

TERMINATING A TENANCY WHERE IT IS SUSPECTED THAT THE PROPERTY HAS BEEN ABANDONED

If a lessor suspects on reasonable grounds that you have abandoned the property, they may:

- (1) Issue you with a [Form 13: Notice of Termination to Tenant if Premises Abandoned](#); or
- (2) Apply to Court for an order declaring that the premises were abandoned on a certain day. If such an order is made then you are taken to have abandoned the premises on the date in the Court order, and the agreement will be taken to have been terminated on that date.

IF YOU HAVEN'T ABANDONED A PROPERTY AND AN ORDER HAS BEEN MADE OR A FORM 13 HAS BEEN SENT

If you have been sent a [Form 13](#) from the lessor, you have 7 days to make an application to the Magistrates Court to set aside the notice. If you do not make this application, it will be taken that you have abandoned the property (and the tenancy will terminate at that point).

If you make the application within 7 days of receiving the notice, the court may make an order setting aside the notice.

If you don't make the application within 7 days, you can make an application within 28 days for the court to make one of the following orders:

- An order terminating the agreement;
- An order requiring the lessor to pay you compensation;
- Any other order the court considers appropriate.

If there has been an order made by the court that the property was abandoned, you have 28 days from the date of the court order to apply for a review. At the review, the court may make an order requiring the lessor to pay you compensation.

ABANDONED GOODS

WHAT HAPPENS TO YOUR BELONGINGS IF YOU LEAVE THEM AT THE PROPERTY AFTER THE TENANCY ENDS?

The lessor can dispose of perishable goods, and your belongings that have an estimated value less than the estimated cost of removal, storage and sale, **2 days after** termination of the tenancy.

If your belongings have a higher value, the lessor must store your belongings for **60 days**. The lessor is required to notify you that they are storing your belongings within the first **7 days**. They must send a notice to the forwarding address you have provided **and** place a notice in a State-wide newspaper.

The lessor must notify you with the following forms to let you know what they are doing with your belongings: [Form 2 Notice](#) to former tenant as to disposal of goods and [Form 3 Notice](#) as to disposal of goods.

If you have left behind documents such as photographs, official documents, letters or any other documents which it would be reasonable to expect that a person would want to keep, then the lessor must store these documents for **60 days** and must take reasonable steps to contact you to arrange collection. This includes documents stored electronically – for example on a USB thumb drive, the hard drive of a computer, or a CD or DVD.

HOW CAN YOU RECLAIM YOUR BELONGINGS?

You can reclaim your belongings/documents before the **60 days** but you will be liable for costs associated with removing and storing your belongings and documents.

Payments need to be reasonable, and you have the right to ask for receipts for removal and storage fees to ensure the lessor is requesting a reasonable amount for costs.

WHAT HAPPENS TO YOUR BELONGINGS AFTER 60 DAYS?

If you have not collected **documents** after 60 days, the lessor can dispose of them, but this must be done in a way that does not result in your personal information becoming public.

If you have not collected your **belongings**, the lessor can sell your belongings at a public auction and deduct from the proceeds of the sale any amount that you owe them for removing and storing your belongings.

WHAT CAN YOU DO IF A LESSOR DISPOSES OF YOUR BELONGINGS, AND THEIR ESTIMATED VALUE WAS NOT LESS THAN THE ESTIMATED VALUE OF REMOVAL, STORAGE AND SALE?

You can apply to the court for the lessor to pay you compensation for the loss of your goods.

Disclaimer

This fact sheet only contains general information. This fact sheet is not legal advice and should not be relied on as a substitute for legal advice. You may wish to seek advice from a lawyer regarding your own particular circumstances. We are not responsible for any consequences arising from your use of, or reliance on, the information contained in this fact sheet.

Further information about our disclaimer and your use of this fact sheet can be found here:

www.circlegreen.org.au/disclaimer/

FURTHER HELP – TENANTS’ ADVICE AND ADVOCACY

Circle Green Community Legal

(08) 6148 3636

www.circlegreen.org.au

Department of Mines, Industry Regulation and Safety

www.dmirs.wa.gov.au, **Consumer Protection** for consumer and tenancy related matters
commerce.wa.gov.au/consumer-protection | 1300 304 054

METROPOLITAN COMMUNITY LEGAL CENTRES

Fremantle CLC

(08) 9432 9790

www.fremantle.wa.gov.au/fclc

Gosnells CLC

(08) 9398 1455

www.goscl.com.au

Midland Information Debt & Legal Advocacy Service

(08) 9250 2123

www.midlas.org.au

Northern Suburbs CLC (Joondalup)

(08) 9301 4413

www.nsclegal.org.au

Northern Suburbs CLC (Mirrabooka)

(08) 9440 1663

www.nsclegal.org.au

Southern Communities Advocacy & Legal Education Services (SCALES)

(08) 9550 0400

murdoch.edu.au/School-of-Law/Clinical-Legal-Education-SCALES

Sussex Street CLS

(08) 6253 9500

www.sscls.asn.au

Welfare Rights & Advocacy Service

(08) 9328 1751

www.wraswa.org.au

REGIONAL COMMUNITY LEGAL CENTRES

Albany CLC

(08) 9842 8566

www.albanyclc.com.au

Goldfields CLC

(08) 9021 1888 | 1300 139 188 (if outside Kalgoorlie-Boulder)

www.gclc.com.au

Kimberley Community Legal Services :

www.kcls.org.au

- **Kununurra**
(08) 9169 3100 | 1800 686 020 (freecall)
- **Broome**
(08) 9192 5177

Peel CLS

(08) 9581 4511

www.peelcls.com.au

Pilbara Community Legal Services:

www.pcls.net.au

- **Karratha**
(08) 9185 5899
- **Newman**
(08) 9140 1613
- **Roebourne**
(08) 9185 5899
- **South Hedland**
(08) 9140 1613

Regional Alliance West

(08) 9938 0600

www.raw.org.au

South West CLC

(08) 9791 3206 | 1800 999 727 (freecall)

www.swclc.org.au

Wheatbelt CLC

(08) 9622 5200

www.wheatbeltclc.com.au