

5 October 2022

Moratorium on Housing Authority ‘without grounds’ evictions

We the undersigned are calling for an urgent moratorium on all ‘without grounds’ terminations from public housing.

On 16 September 2022, the Federal Court of Australia granted an injunction to Mr John Abraham to prevent the termination of his fixed term tenancy, based on a racial discrimination complaint lodged with the Australian Human Rights Commission (AHRC). Mr Abraham’s complaint alleges that fixed term tenancies and without grounds evictions are being used in a discriminatory way against indigenous tenants of the Housing Authority.

Since then, the Housing Authority have enforced another ‘without grounds’ termination against an elderly Aboriginal man, who is now homeless. This eviction was despite multiple written requests from the lawyers assisting him to the Housing Authority, to confirm that they would not action the eviction in light of the Federal Court injunction; requests which received no response from the Housing Authority.

It is essential to halt action on all ‘without grounds’ terminations from public housing while the AHRC complaint is being considered, to avoid further risk of eviction to homelessness, and excess litigation in other tenants lodging similar actions with the AHRC and the Federal Court where they are in comparable circumstances, ensuring an efficient use of resources (including judicial resources, the Department’s resources, and the resources of tenant advocates in assisting tenants with these applications).

It is also critical that this is applied statewide to ensure that more vulnerable tenants are not evicted to homelessness without grounds, given our efforts to resolve directly with the Housing Authority have been ineffective and ignored.

‘Without grounds’ terminations include both termination of periodic tenancy agreements under section 64, and terminations upon the expiry of fixed term agreements under section 70A of the *Residential Tenancies Act 1987* (WA).

We do not intend that the Housing Authority be prevented from terminating tenancies where there are express reasons for doing so. We understand that often the Housing Authority uses ‘without grounds’ termination of both fixed and periodic tenancies due to breaches and other ongoing issues in a tenancy. We submit that where the Housing Authority has a basis for seeking termination of a tenancy because of an alleged breach by the tenant, that it is still appropriate for them to follow the process to terminate the tenancy for this breach. This process allows the Magistrates Court to test the allegations of breach and determine if they justify termination in all the circumstances.

However, in light of the Federal Court decision and the ongoing nature in Mr Abraham’s case, we urge the government to halt all ‘without grounds’ evictions from public housing immediately.






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On behalf of the Tenancy Network:

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Fremantle Community Legal Centre
Goldfields Community Legal Centre
Gosnells Community Legal Centre
Kimberley Community Legal Services
Midlas
Northern Suburbs Community Legal Centre
Peel Community Legal Services
Pilbara Community Legal Services
Regional Alliance West
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