

I am being accused of family violence – what do I do?

This fact sheet is about:

- your options when you have been accused of family and domestic violence
- where to seek help and assistance

This fact sheet provides options if you are a co-tenant who has been accused of family violence.

WHAT IS FAMILY AND DOMESTIC VIOLENCE?

Family and domestic violence (**FDV**) can happen between people who are in a family relationship, where one person:

- uses violence or threats of violence against another person;
- coerces or controls; or
- causes another person to be fearful.

Family and domestic violence (**FDV**) has a broad definition and is not limited to physical violence. Some examples of things that could be FDV:

- a) Damaging or destroying personal property;
- b) Sexual assault or other sexually abusive behaviour;
- c) Causing death or injury to a pet;
- d) Unreasonably withholding financial support needed to meet reasonable living expenses;
- e) Preventing connection with family, friends, or culture;
- f) Causing a child to be exposed to any of the above.

There are other examples in the full definition set out in the *Restraining Orders Act*.

For behaviour to be FDV, there must be **family relationship** between the person who is committing the violence and the person they are committing it against. There might be a family relationship if:

- There is or was an intimate personal relationship between them (including a spouse, ex-spouse, de facto partner, or ex-de facto partner);
- One is the parent or guardian of the other; or
- They are related to one another.

MY CO-TENANT ACCUSED ME OF FAMILY VIOLENCE AND LEFT THE TENANCY

Your co-tenant can terminate their interest in the tenancy with at least 7 days' notice by giving the lessor a Family Violence Termination Notice and supporting document.

If your co-tenant moves out, then their interest in the tenancy will end and they will no longer have any rights or obligations under the agreement. The tenancy will continue for you and any other remaining tenants. Once the lessor receives the notice, they must give a copy of it to you and any other remaining tenants within 7 days. You will not be given any of the supporting documentation.

Once you receive the notice you have 7 days to decide what you want to do. You can either stay at the tenancy or you can choose to end your interest in the tenancy too. The remaining co-tenants are free to make their own individual decision on what they want to do.

If you choose to stay and continue the tenancy

If you choose to stay, you and any other remaining co-tenants will be responsible for the full rent and may need to top up the bond. You could try to find a new housemate to help pay the rent. You might need the lessor's consent to either sublet or add a new housemate – check what your lease agreement says. If you choose to stay, the lessor doesn't have an option to end the whole tenancy under the FDV provisions. The lessor still has their standard options to end the lease.

To read further about options for finding a new housemate, or if you receive a termination notice from the lessor, read our other fact sheets on our website, or seek advice about your situation.

If you choose to leave the tenancy

You can end your interest in the tenancy by giving at least 21 days' notice in writing to the lessor.

If you do decide to terminate, you need to give your notice of termination within 7 days after the lessor gives you a copy of your co-tenant's notice of termination.

Your notice of termination must identify the premises, state the date when you will leave (the 'termination date') and be signed by you. You can use the [Form 22 Notice of termination](#) from tenant to lessor. This form is optional, but most people use it because it includes all the required information.

Your interest in the tenancy ends when you move out in accordance with your termination notice.

If you follow these steps to end your interest in the tenancy, then there is no break lease or early termination compensation owed to the lessor. You will be liable for:

- Rent during your 21-day notice period, and
- Your share of any damage costs or rent arrears

If another co-tenant stays, the lease will continue in their name on the same terms, but you are not liable for anything more after the date your interest ends.

WHAT IF I DON'T AGREE THAT THERE WAS FAMILY VIOLENCE?

A co-tenant cannot dispute a Family Violence Termination Notice. A lessor can apply to Court to review the validity of the Family Violence Termination Notice but they will not consider the details of the FDV.

MY CO-TENANT WANTS TO STAY IN THE PROPERTY AND MAKE ME LEAVE

If a co-tenant accuses you of FDV, they can apply to Court to terminate your interest in the tenancy.

The Court can terminate your interest in the tenancy if there is a Family Violence Order in force against you that prevents you from accessing or occupying the property, or if the Court is satisfied that you have committed FDV against your co-tenant.

If there is a Family Violence Order against you (like a Family Violence Restraining Order or a Family Court injunction) that prevents you from accessing or occupying the property, the Court will accept that as evidence of FDV and will not hear other evidence about whether there was or wasn't FDV.

If there is no Family Violence Order in place, then before making an order to take your name off the lease, the Court will need to be satisfied that you committed FDV during the tenancy (including threats of FDV). You will have an opportunity to be heard and contest the evidence.

The Court will consider when making these orders:

- The best interests of any children living at the property (this will be the primary concern of the Court);
- The best interests of your co-tenant (if the property is social housing, this may include their ability to meet eligibility criteria);
- The impact on the lessor and other tenants at the property;
- The impact on any pets at the property; and
- The fact that perpetrators of FDV might seek to misuse these protections to further their violence.

If the Court makes an order, it will terminate your interest in the tenancy between 7 and 30 days after the court hearing.

The Court is also required to determine the rights and liabilities of parties as affected by the termination, so they can decide who is liable for damage to the property or rent arrears, for example.

For further information, see our fact sheet on bond, court and FDV.

We also have fact sheets on going to court to resolve a tenancy issue on our website.

I HAVE LEFT THE PROPERTY AND WANT TO TAKE MY NAME OFF THE LEASE

If you have left the property and want to be removed from the agreement, you can apply to Court to have your interest in the tenancy terminated.

The Court makes the decision using the same factors as above. If the remaining co-tenant does not want you to be taken off the lease, they can present arguments as to why they don't think this should happen. The Court may find that it is best for you to remain on the tenancy agreement and remain liable for the rent. You may be more likely to be successful in getting your name off the tenancy if you can show that you have made arrangements to pay child support, maintenance, or a family law property settlement.

If the Court makes a termination order, it will terminate your interest in the tenancy between 7 and 30 days from the date the order is made.

The Court is also required to determine the rights and liabilities of parties as affected by the termination, so they can decide who is liable for damage to the property or rent arrears, for example.

WHAT IF I AM THE VICTIM OF FDV, BUT THE PERPETRATOR IS CLAIMING TO BE THE VICTIM AND MAKING THESE APPLICATIONS?

Sometimes a person who committed FDV may intentionally misuse the family violence tenancy provisions to further their violence. This is one of the factors that the Court is required to consider, so you can raise this as an issue for the Court.

If this is happening to you, seek advice about the best way to manage your situation.

WHERE CAN I GET MORE HELP?

FDV can result in lots of legal issues. You may want advice about restraining orders, family law for children's arrangements and for property settlement, advice about child support, advice about criminal law, and possibly advice about child protection law too.

Legal information, advice and referrals:

Legal Aid WA: 1300 650 579

Your local Community Legal Centre or an appropriate specialist service – a full list is available at the [Community Legal WA](#) website.

If you are at risk of homelessness:

Entrypoint - entrypointperth.com.au/ - referral service for people at risk of homelessness. Phone (08) 6496 0001 or 1800 124 684.

Crisis Care - Telephone (08) 9223 1111 or 1800 199 008 (country free call).

FURTHER HELP – TENANTS ADVICE AND ADVOCACY

Circle Green Community Legal

(08) 6148 3636

www.circlegreen.org.au

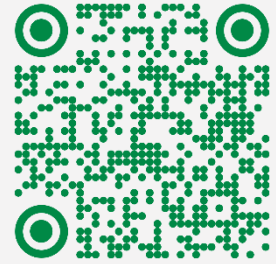
Department of Energy, Mines, Industry Regulation, and Safety

Consumer Protection for consumer and tenancy related matters

commerce.wa.gov.au/consumer-protection | 1300 304 054

To find a tenant advocate in your area,
visit our website or use the QR code →

<https://circlegreen.org.au/resource/find-a-tenant-advocate>



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