Fact Sheet
For
Tenant Absence from CERC property

From time to time members ask permission to take leave of absence from the CERC and also to leave their property for a time, with the right to return. There are many reasons why they may ask this. The Office of Housing has a policy where such absences may be permitted and it seems reasonable that the CERC Program similarly have such a provision. That said, it is not currently a wide-spread practice and it needs to remain very much the exception.

The policy and procedure outlined in this document should avoid most of the legal and practical pit-falls in this area, but if a CERC is approaching the issue for the first time, it is recommended to seek the advice of CEHL Staff.

In making a request to the CERC’s Board, the member is seeking two things:

1. Leave from their active membership requirements – this should be considered by the Board in terms of the Leave of Absence policy No.18; and,

2. Permission to move out of their property and possibly have someone else living there, for a defined period of time. This document sets out the criteria and rules around this aspect.

It is expected that all members reside in their allocated CERC property. In exceptional circumstances and at the discretion of the CERC Board of Directors, permission may be granted for a member to move out of their CERC property for a period of time and for someone else to reside in the property.

Categories:

Applications are classified into two categories (and the rental arrangements are different between the two). The categories are:

1. Voluntary – such as an extended Overseas trip, Family Crisis Out-of-Town, Short-term Job Out-of-Town etc.; and,
Involuntary – such as a short-term stay in a Nursing Home, Respite or Rehabilitation Care or Imprisonment.

Application:

Members seeking to have:

(1) voluntary leave of absence from their usual active membership responsibilities and
(2) permission to have someone else live in the house;

should apply in writing to the CERC Board of Directors for permission stating their reasons, the period of leave they are seeking and details of their proposed arrangements.

Requesting leave of absence:

1. The applicant seeks written permission from the CERC Board of Directors stating:
   - their reasons for their planned absence, where they are going (including a contact address) and how long they will be away;
   - that they wish to retain membership and tenancy rights in the CERC during their absence;
   - that they intend to return to their CERC house and resume their active membership of the CERC at a specified date;
   - what they propose regarding the house while they are absent;
     ✓ Will the house be empty during the tenant’s absence?
     ✓ If someone else will be living there, who is it and what are the arrangements?
     ✓ If the house will be vacant, who will mow the lawns, tend the gardens, clear the letterbox etc.?
     ✓ What arrangements are being made about payment of the rent (note the income of anyone else “minding” the house must be included in the rent calculation).

2. There are a wide variety of reasons why a member might be asking for such leave and the CERC Board of Directors needs to take the whole picture into account, particularly:
   - the reasons for and duration of, the proposed absence;
   - whether the member has a good rent record and is in good standing in terms of their activity and involvement in the CERC’s activities;
   - whether the member has had such leave before;
   - what steps the CERC needs to take to cover the member’s absence;
   - the arrangements proposed regarding their house.

NOTE: At a time of crisis it may be difficult to obtain this information but it should be followed up as soon as possible.
Duration of the absence

The maximum period for such leave is six months. If requested, a further six months may be granted, but in no circumstances should a total absence of more than 12 months be granted. After a period back in the house and as an active member within the CERC, a second period could, if requested, be considered.

Arrangements for the tenancy should be as follows:

If the house is to remain empty:

The departing member may choose to leave the house empty for the duration of their absence – they of course remain liable for the rent. In this situation the house is not, technically, “vacant”, provided their possessions remain in it (and they must make acceptable arrangements for upkeep of the property, clearing the mail etc.).

Joint tenancy of the house during the Members’ absence:

1. If someone else is to live in the property, the departing member is responsible for finding a suitable person (not the CERC). The CERC may seek involvement in the selection and may make granting of the leave conditional on the selection of an acceptable tenant. This person must be 18 years or older.

2. When a suitable person is agreed on, the process is as follows:
   
   (i) A new tenancy agreement is drawn up, with both the departing member and the new tenant’s name/s listed as joint tenants for the duration of the planned absence by the member. This document provides security to both the CERC and joint tenants;

   (ii) This new tenancy agreement replaces any previous agreement the departing member may already have with the CERC;

   (iii) a new Income Declaration Form is required for the household, taking into account both the departing member’s income and the new joint tenant/s income/s.

Defining Responsibilities

The new joint tenant is not a member of the CERC, only a joint tenant in a CERC house.

The CERC will need to maintain a working relationship with the joint tenant in order to fulfill its landlord’s responsibilities. The ultimate responsibility still remains with the member.

If VCAT action is required over rent arrears or damage to the property, it is taken against the absent member and the joint tenant and any order for Vacant Possession will affect everyone in the household.
Rent – Voluntary Absences

The rent is calculated on the household members’ income – including the absent member, the joint tenant and anyone else living in the house.
If they do not have an income, a minimum Centrelink entitlement will be imputed.

Rent – Involuntary Absences

Until 1 July 2007, where the house is left empty and the absence is “involuntary” (see definition under Categories on page 1), the rent will be $15.00 per week.

From 1 July 2007, the rent shall be set at the minimum possible rent, that is imputed Adult New Start.
If the absent member is entitled to CRA, the weekly rent shall be $67.
If the absent member is not entitled to CRA, the weekly rent shall be $50.35.
These figures are current at 1 July 2007 and will change from time to time.
This arrangement should initially be granted for 3 months, and may be extended for another 3 months only. In no circumstance should the arrangement extend beyond a total of 6 months.

At the end of the Member’s absence

(1) The member would make their own arrangements with the joint tenant regarding giving notice of their intention to return and agreeing on when the joint tenant/s is moving out (if the intention is that the joint tenant will be leaving the property on the return of the member).
(2) The member should advise the CERC, confirming their previously agreed plans are on track and they are planning to resume the tenancy and their normal CERC activities.
(3) When the member has returned, a new Tenancy Agreement and Income Declaration Form will be required.
(4) If CEHL has been advised of the absence for insurance purposes, advice should be sent that the member/tenant is back in residence.

If the returning member encounters difficulties with their joint tenant they may need to undertake VCAT action on their own behalf.