

PROGRAM POLICY: BREACH OF DUTY BY TENANT

Policy number	PPOL010	Version	v1.0
Drafted by	Program Development Manager	Approved by Board on	22 February 2017
Responsible Person	Program Director	Scheduled Review Date	22 February 2019

1. PURPOSE

The purpose of this policy is to:

- a. ensure that breaches of duty by tenants are managed in a prompt, fair and consistent manner
- b. ensure that the management of a breach of duty by a tenant has regard for the specific circumstances of the breach.

2. POLICY CONTEXT

The Residential Tenancies Act provides for landlords to formally seek remedy or compensation where a tenant has breached a duty owed by the tenant to the landlord. The imperative to take prompt action to address a breach should be considered in the context of the Performance Standards for Registered Housing Agencies, which require registered agencies to strive to sustain tenancies.

3. POLICY STATEMENT AND PRINCIPLES

3.1 STATEMENT

- 3.1.1 Landlords will deal with all breaches of duty promptly.
- 3.1.2 In managing a breach of duty, landlords will balance the need to protect CEHL Program assets with the need to, where appropriate, support vulnerable tenants to maintain their tenancies.

3.2 PRINCIPLES

- 3.2.1 Landlords will provide tenants with timely, accurate and up-to-date information regarding the process for investigating a potential breach of duty of the Residential Tenancies Act or the Tenancy Agreement by a tenant.
- 3.2.2 In investigating a potential breach of duty, landlords will ensure that the principles of natural justice are adhered to.

- 3.2.3 Landlords will take prompt action to address a proven breach of duty.
- 3.2.4 Landlords will seek to informally remedy a breach of duty before commencing formal breach of duty action.
- 3.2.5 Having commenced formal breach of duty action, landlords will give tenants the opportunity to remedy the breach in a reasonable timeframe, no less than the timeframe set out in the Residential Tenancies Act, prior to further action being taken.
- 3.2.6 In accordance with the Referral to Support Agencies Program Policy, when appropriate and as required, tenants will be offered access to relevant support agencies to assist them to maintain their tenancy and avoid eviction.
- 3.2.7 Landlords will have in place documented procedures for managing breaches of duty.

4. SCOPE

- 4.1 This is a Program Policy. It applies to all residential tenancies managed by CEHL or its member co-ops.

5. DEFINITIONS

- 5.1 For all definitions relating to this policy, please refer to the Program Glossary.

6. LEGAL REQUIREMENTS

- 6.1 This policy adheres to and incorporates guidance from:
 - 6.1.1 [Residential Tenancies Act 1997: sections 208 – 215.](#)
 - 6.1.2 [Performance Standards for Registered Housing Agencies: section 1 Tenant and Housing Services.](#)
 - 6.1.3 [Victorian Charter of Human Rights and Responsibilities 2006.](#)

7. PROGRAM REQUIREMENTS

- 7.1 This policy is consistent with:
 - 7.1.1 International Co-op Principles:
 - Open & Voluntary Membership
 - Democratic Control by Members
 - Concern for Community.
 - 7.1.2 Program Principles:
 - Security
 - Affordability & Financial Sustainability

Participation
Membership & Growth
Changing Needs
Working Together.

8. RELATED PROGRAM POLICIES

8.1 This policy should be considered in conjunction with:

- 8.1.1 Ending a Tenancy (Landlord Initiated) Program Policy.
- 8.1.2 Tenancy and Housing Complaints and Appeals Program Policy.
- 8.1.3 Referral to Support Agencies Program Policy.

9. AUTHORISATION

Approved by	CEHL Board	Date of approval	22 / 02 / 2017
Position	CEHL Chair		Karren Walker
Position	Manager		Nicola Foxworthy