

PROGRAM POLICY: ENDING A TENANCY (LANDLORD INITIATED)

Policy number	PPOL009	Version	v2.0
Drafted by	Program Development Coordinator	Approved by Board on	26 July 2018
Responsible Person	Program Director	Scheduled Review Date	26 July 2020

1. PURPOSE

1.1. The purpose of this policy is to:

- a. ensure that landlords deal with conduct that may result in the eviction of a tenant in a prompt and fair manner
- b. minimise instances of eviction
- c. where an eviction is necessary, ensure the tenant is fully informed of their rights and obligations and offered access to support agencies.

2. POLICY CONTEXT

The Residential Tenancies Act has specific provisions in relation to ending a tenancy, including in instances of eviction. This policy relates to all relevant provisions, excluding section 263 – notice to vacate for no specified reason. The RTA provisions that apply must be considered in the context of the Performance Standards for Registered Housing Agencies, which require registered agencies to treat eviction as a mechanism of last resort.

3. POLICY STATEMENT AND PRINCIPLES

3.1 STATEMENT

- a. Landlords will respond to conduct that may result in eviction promptly and fairly.
- b. Landlords will strive to minimise evictions.

3.2 PRINCIPLES

- a. Co-ops must notify CEHL prior to issuing a Notice to Vacate, and CEHL will acknowledge receipt
- b. When a landlord issues a Notice to Vacate, they will offer the tenant information on how to contact a support agency, in accordance with the Referral to Support Agencies Program Policy.

- c. In the interest of minimising evictions, landlords will not seek a possession order on a first attendance at VCAT, except where:
 - i. the tenant has made no agreement with the landlord
 - ii. the matter relates to danger or violence
 - iii. the matter relates to malicious property damage
 - iv. there has been illegal use of the premises
 - v. the tenant has failed to attend the VCAT hearing
 - vi. the matter relates to property habitability, where the tenant has been offered appropriate alternative accommodation in accordance with the Appropriate Alternative Accommodation Program Policy.
- d. Landlords will seek possession on any second VCAT attendance relating to non-compliance on a previous order or where there has been a sustained history of VCAT orders.
- e. Where a possession order has been obtained, the landlord will inform CEHL immediately and the landlord will enter into negotiations with the tenant to remedy the breach within the subsequent six months, except where:
 - i. the order relates to a matter set out in section 3.2.c
 - ii. there has been a previous possession order for a similar matter within the preceding 12 months.

Co-ops may seek the involvement of CEHL in these negotiations.
- f. If negotiations with the tenant fail or the tenant breaches the agreement reached in those negotiations, a warrant of possession will be purchased.
- g. The Program requires co-ops to notify CEHL prior to purchasing the warrant.
- h. Upon purchase of the warrant, CEHL will refer the tenant to a support agency.
- i. The tenant will be advised of the process for the execution of the warrant. Consideration will be given to negotiation regarding the timing of the eviction, where possible, prior to the warrant being purchased, as well as an opportunity for the tenant to collect their belongings.
- j. As part of the ending of the tenancy, member co-ops should consider the implications for the ex-tenant's co-op membership.

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:

- a. [Residential Tenancies Act 1997.](#)
- b. [Performance Standards for Registered Housing Agencies: section 1 Tenant and Housing Services.](#)
- c. [Victorian Charter of Human Rights and Responsibilities 2006.](#)

7. PROGRAM REQUIREMENTS

7.1 This policy is consistent with:

- a. International Co-op Principles:
Open & Voluntary Membership
Democratic Control by Members
Co-operation among Co-operatives
Concern for Community.
- b. 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:

- a. Death of a Tenant Program Policy.
- b. Referral to Support Agencies Program Policy.
- c. Appropriate Alternative Accommodation Program Policy.
- d. Ending a Membership Best Practice Guide (to be developed).

9. AUTHORISATION

Approved by	CEHL Board	Date of approval	26 / 07 / 2018
Position	CEHL Chair	Karren Walker	