

Rent increases

Information for tenants

There are certain rules that a landlord or their agent must follow if they wish to put the rent up.

Notice of a rent increase

If the fixed term period of your lease has ended and you are on a continuing (periodic) tenancy the landlord may increase the rent by giving you at least 60 days notice in writing before the date the increased rent becomes payable. The notice must:

- specify the proposed new amount of rent (not the amount of the increase) and
- specify the date from which the increased rent is payable and
- be signed, dated and properly addressed to you.

If you have entered into a tenancy without having a written agreement in place, the rent cannot be increased during the first 6 months.

If you are renewing a tenancy agreement for a further fixed term, the rent cannot be increased automatically. You must still be given 60 days written notice before the rent increase can take effect.

During the fixed term

During a fixed term agreement of less than 2 years the rent cannot be increased, unless a term has been added to the agreement saying it can. The agreement must spell out the amount of the increase or the method of calculating the increase (eg. a dollar amount or %). It cannot be unclear like 'in line with the market' or 'by the rate of inflation'. Even where you have agreed to the increase in the agreement, you still have to be given 60 days written notice before it can take effect.

During a fixed term agreement of 2 years or more the rent can be increased at any time (so long as 60 days written notice is given) but cannot be increased more than once in any 12 month period. After receiving a rent increase notice, you have the option to give 21 days

notice to terminate the agreement. The notice must be given before the increase becomes payable. If you take this option you are not considered to have broken the agreement early.

Negotiating with the landlord

If you receive a rent increase notice, you can ask to discuss it with the landlord or agent. They may be willing to reduce the amount of the increase, especially if you are a long standing and reliable tenant.

If the landlord agrees to a smaller increase you do not have to be given another 60 days notice. The lower increase simply becomes payable from the same day as stated in the original notice. Make sure any agreement you reach is put in writing and signed by yourself and the landlord or agent. In addition, you could ask to sign a new lease for a new fixed period. That way you will lock in the rent for at least the length of the new lease.

Challenging an increase

If you think a rent increase is excessive you can apply to the NSW Civil and Administrative Tribunal. You must apply within 30 days of receiving the rent increase notice. The Tribunal will consider:

- rents for similar premises in the same area or a similar area (ie. the 'market rent')
- the landlord's costs associated with the tenancy agreement
- the value and nature of fittings, appliances and other goods, services and facilities provided with the premises
- the state of repair of the property
- the accommodation and amenities of the premises
- any work you have done to the premises
- when the last increase occurred
- any other relevant matter, except your income or whether you can afford the increase.

While all these factors are important, the main consideration for the Tribunal is the market rent.

If you are thinking about challenging the increase at the Tribunal, contact your local Tenants Advice and Advocacy Service. They can give you assistance on the type of evidence you will need. Newspaper clippings of other properties for rent will not be enough.

If the Tribunal decides that the rent increase is excessive it can order that the rent not be increased or that it be increased by a smaller amount. It can also set the maximum rent for a period of up to 12 months.

If the rent increase comes into effect before your case is heard by the Tribunal you should pay the increased amount until the Tribunal has made its decision. If the Tribunal decides in your favour it can make an order for a refund.

Applying to the Tribunal is the only way to challenge a rent increase. If you have been given proper notice and you do not pay the increase, you will fall behind with the rent over time. This can lead to you being evicted.

If you are not given proper notice you do not have to pay the increase. If you have already started paying the increase you can ask the landlord to refund the extra payments and apply to the Tribunal if they refuse.