



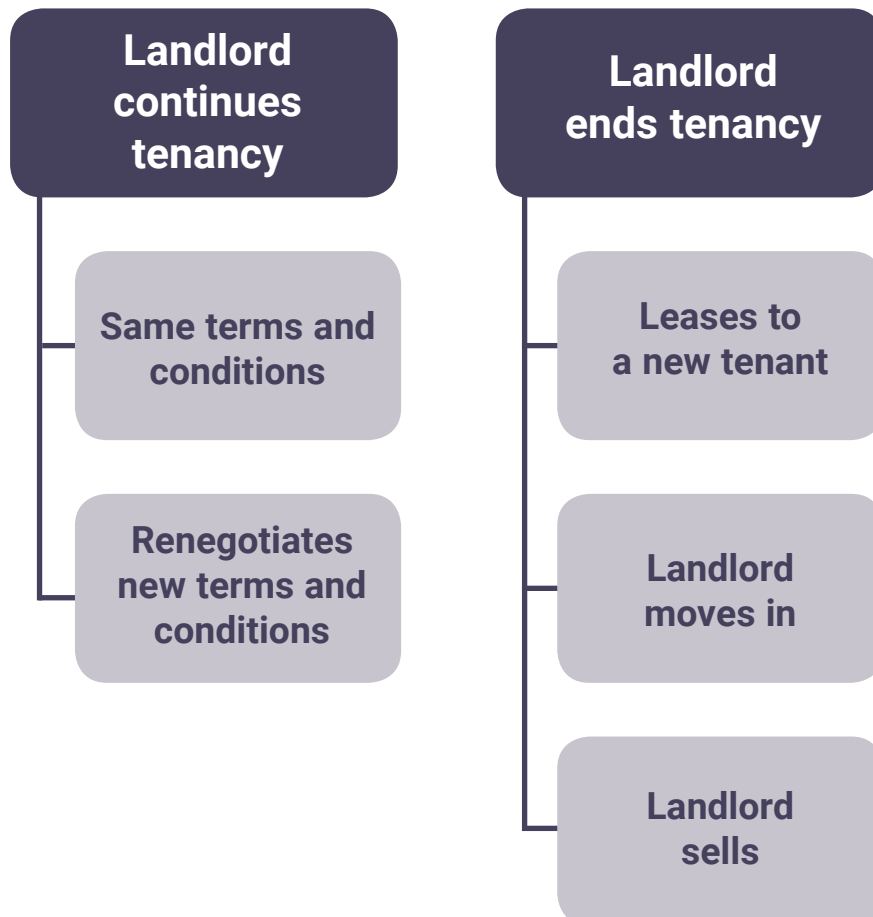
Future renting WA Negotiating guide

It's time to start talking about your renting future.

In response to COVID-19, the Western Australian Government implemented a moratorium on some evictions and all rent increases, under the *Residential Tenancies (COVID-19 Response) Act 2020*. The extended emergency period ends on 28 March 2021, which means that all the existing laws will stay in place until this date, after which the ordinary tenancy laws will apply again.

This guide has been developed to help landlords and tenants start a conversation about their tenancy arrangements after the end of the emergency period.

Consumer Protection is encouraging landlords and tenants to talk about their options, as by negotiating now they will be better prepared and have time to make plans for a safe and secure renting future.



The landlord negotiates their lease with the existing tenant

Risks	<p>The tenant may not be able to afford the rent increase you request.</p> <p>The tenant may not be able to engage in a long-term tenancy.</p>
Benefits	<p>Stability and consistency in tenancy.</p> <p>A long-term plan that secures your future rental.</p>
Considerations	<p>If you want to keep an existing tenant, think about negotiating a rent increase that is suitable and reasonable for all parties on the lease agreement. It is important the tenant/s are able to maintain the increase in the long term.</p> <p>Check the rent for comparable properties in your area, rather than relying on media reports, and gauge a realistic market rent value for your premises.</p> <p>Think about what terms and conditions are most important to you.</p>
Pathways Forward	<p>Start negotiating now.</p> <p>If you agree on the amount the rent will increase after the moratorium, you can prepare the notice using the Form 10 Notice to Tenant of Rent Increase or you can enter into a new fixed term with higher rent.</p> <p>If the new agreement starts immediately after a fixed-term agreement ends, the tenant is not required to pay the increased rate of rent for the first 30 days of the new agreement.</p> <p>The Residential Tenancies Mandatory Conciliation Service can help owners and tenants with negotiating the terms of a lease agreement.</p> <p>If the tenant is in arrears, the Residential Rent Relief Grant Scheme has been expanded to assist landlords who reduced, deferred or waived rent as at 1 December 2020. Landlords will be paid direct one-off grants, up to \$4,000, of the accrued rent arrears incurred during the emergency period. To apply visit www.dmirs.wa.gov.au/covidrentgrant.</p>

The landlord leases to a new tenant

Risks	<p>Finding the right tenant for your property.</p> <p>Rent expectations may not be met by the market.</p> <p>The new tenant agrees to increased rent, but cannot pay long term.</p> <p>If the existing tenant does not vacate on time you may be liable for the new tenant's costs in finding alternative accommodation in the interim.</p>
Benefits	<p>Increased rental income.</p> <p>Might find a more suitable tenant.</p>
Considerations	<p>If when terminating an existing tenancy to re-let the premises there is likely to be a gap of at least a week between tenancies during which the premises are not earning any income, how long will it take to recover this loss?</p> <p>Is the rent increase you are hoping to achieve realistic for the type of tenant your home is likely to attract? Be cautious about pricing your home above your target market. For example, local families and working couples, your home may become more attractive/suited to sharers or group tenancy arrangements.</p> <p>Check the rent for comparable properties in your area, rather than relying on media reports, and gauge a realistic market rent value for your premises.</p> <p>There are other costs to factor in. There are advertising expenses to promote the property. If you have engaged a property manager to manage your premises, you will need to pay them fees associated with finding and signing up a new tenant, such as letting fees.</p> <p>You need to allow time between the current tenant vacating the premises, and the new tenant moving in, to avoid the risk of the former tenant not moving out on time. This could be for genuine reasons, such as the removalist did not turn up on the scheduled day and time.</p> <p>Extra time may also be needed to make minor repairs or other improvements to the property.</p> <p>Continued/....</p>

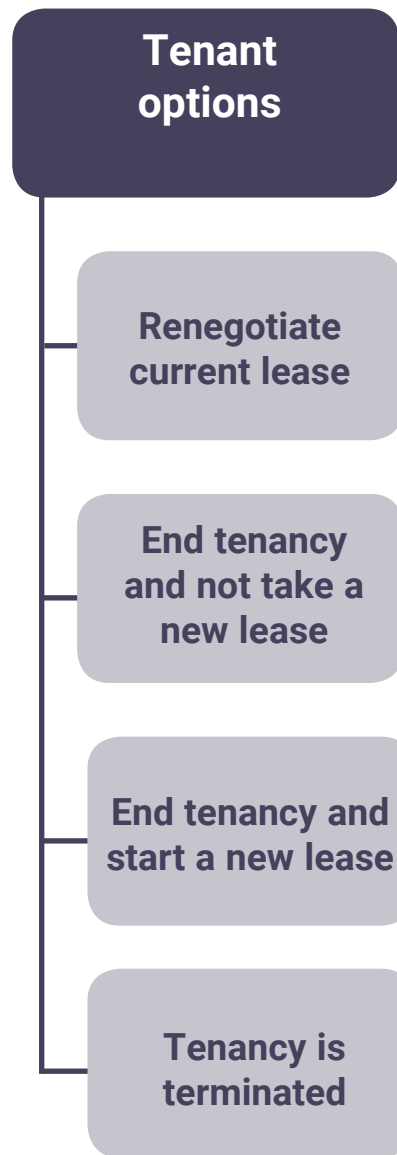
Pathways Forward	<p>If you want the tenant to move out of the property, you can both decide when this will happen. If your proposal suits the current tenant, make arrangements now and agree on when they will apply.</p> <p>If you cannot agree, the landlord can terminate in the following circumstances:</p> <p>Fixed-term agreement – landlord must give the tenant at least 30 days’ notice of termination of the fixed-term agreement. The date for vacant possession on the notice cannot be a date earlier than the end date of the fixed-term.</p> <p>Periodic agreement – landlord must give the tenant 60 days’ notice of termination. The landlord does not have to state a reason for terminating.</p> <p>If the tenant does not vacate the premises in line with the termination notice, the landlord must apply to the court for an order terminating the agreement and for possession of the premises.</p> <p>Alternatively, landlords can make an application to the Residential Tenancies Mandatory Conciliation Service for help in negotiating with the tenant a suitable date for vacant possession of the premises.</p> <p>The Landlord Hotline, 1300 304 054, can assist you in deciding which course of action is best for your circumstances.</p>
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The landlord moves into the property

Risks	No rental income for landlord.
Benefits	No additional accommodation costs for the landlord.
Considerations	<p>There may not be an immediate solution unless the landlord and tenant can agree in writing to a termination date.</p> <p>The landlord must give the tenant notice of termination, and cannot require the tenant to vacate the premises before the end of the relevant notice period.</p> <p>If the tenant does not vacate, the landlord will need to go to court.</p> <p>It may take time for the court to hear an application, and it is unlawful for a landlord to take back possession of the premises without the court order.</p> <p>If you use a real estate agent to manage your property, you may need to negotiate the early termination of the management authority, so check for the termination terms.</p>
Pathways Forward	<p>If you want to move back into the property, you can both decide when this will happen. If your proposal suits the current tenant, make arrangements now and agree on when they will apply.</p> <p>Fixed-term agreement – landlord must give the tenant at least 30 days’ notice of termination. The date for vacant possession on the termination notice cannot be a date earlier than the end date of the fixed term.</p> <p>Periodic agreement – landlord must give the tenant at least 60 days’ notice of termination. The landlord does not have to state a reason for terminating.</p> <p>If the tenant does not vacate the premises in line with the termination notice, the landlord must apply to the court for an order terminating the agreement and for possession of the premises.</p> <p>Alternatively, landlords can make an application to the Residential Tenancies Mandatory Conciliation Service for help in negotiating a suitable date with the tenant for vacant possession of the premises.</p> <p>Hardship – if the landlord is in hardship and cannot wait the notice periods before moving in, apply to the court for an order terminating the agreement on the grounds of hardship. You will need to prove hardship to the court.</p> <p>The Landlord Hotline, 1300 304 054, can assist you in deciding which course of action is best for your circumstances.</p>

The landlord sells the property

Risks	No future rental income.
Benefits	No mortgage or property expenses. Income from sale.
Considerations	<p>If the landlord decides to terminate the tenancy before listing the property for sale, the landlord will not have rental income while the property is on the market. If the property takes time to sell, this could be a lost opportunity to receive income from the premises.</p> <p>Discuss with the real estate agent whether having an ongoing tenant is a good selling point for the premises. If the premises are being marketed to other investors, it may help with the sale if a reliable tenant is in place.</p> <p>If a landlord prefers to market the premises vacant, the landlord can terminate the tenancy at the end of the fixed term, or if the agreement is periodic, by giving the tenant 60 days' notice of termination. This could delay when the property is listed for sale.</p>
Pathways Forward	<p>If you want the tenant to move out before you list the property for sale, you can both decide when this will happen.</p> <p>If your proposal suits the current tenant, make arrangements now and agree on when they will apply.</p> <p>Terminating the agreement before listing for sale</p> <p>If you can't agree, a landlord can terminate the tenancy in the following circumstances:</p> <p>Fixed-term agreement – landlord must give the tenant at least 30 days' notice of termination of the fixed-term agreement. The date for vacant possession cannot be a date earlier than the end date of the fixed-term.</p> <p>Periodic agreement – landlord must give the tenant at least 60 days' notice of termination. The landlord does not have to state a reason for terminating.</p> <p>Alternatively, landlords can make an application to the Residential Tenancies Mandatory Conciliation Service for help in negotiating with the tenant a suitable date for vacant possession of the premises.</p> <p>Termination of the agreement on sale of the premises</p> <p>If the landlord maintains the tenancy while the premises are listed for sale, the tenancy agreement can be terminated upon a contract of sale being entered into if:</p> <ul style="list-style-type: none"> • the agreement is periodic; and • it is a condition of the sale that the premises are sold vacant. <p>In this case the landlord must give the tenant 30 days' notice to terminate the tenancy.</p> <p>If the tenancy agreement is a fixed-term agreement, the landlord cannot terminate the agreement when they sell. The buyer becomes the new landlord. If the buyer wants to terminate the tenancy agreement then the ordinary rules will apply – they can either give 30 days' notice to terminate at the end of the fixed-term, or if the agreement has rolled over into a periodic agreement, the notice period is 60 days.</p> <p>If the tenant does not move out in accordance with the termination notice, the landlord must apply to the court for an order terminating the agreement and for possession of the premises.</p> <p>The Landlord Hotline, 1300 304 054, can assist you in deciding which course of action is best for your circumstances.</p>



The tenant renegotiates their current lease

Risks	<p>May not be able to meet landlord expectations in relation to increased rent amount.</p> <p>May agree to pay increased rent but be unable to meet this commitment long term. This could lead to eviction and being listed on a tenancy database.</p>
Benefits	Securing a tenancy in a rental market with low vacancy rates.
Considerations	<p>Look at what you can afford and for how long you would like the rental term to be.</p> <p>Gauge market value—what are other properties in the area being leased for?</p> <p>Don't agree to pay more rent than you can afford. If you fall behind in rent payments, the landlord can issue you a breach notice and then terminate the tenancy agreement if you do not catch up with your payments. This could lead to you being listed on a residential tenancy database for up to three years.</p> <p>A landlord must give you at least 60 days' notice of a rent increase. If you have an existing fixed-term agreement, the landlord can only give you a notice of rent increase if the agreement allows for this, and the agreement states how much the rent will increase by.</p> <p>If you are entering into a new fixed-term agreement with the existing landlord, the new agreement can specify a higher amount of rent, but you cannot be required to pay the higher rent for the first 30 days of the new agreement.</p> <p>If the rent is increased, the landlord can also ask you to increase the security bond.</p>
Pathways Forward	<p>The Residential Tenancies Mandatory Conciliation Service can help tenants and landlords agree on rent increases and terms for new agreements into the future.</p> <p>If you are behind in paying rent the Residential Rent Relief Grant Scheme assists tenants who have rent debt during the emergency period by paying up to 75 per cent, up to \$4,000, of the accrued or waived rent from 1 December 2020. See www.dmirs.wa.gov.au/covidrentgrant for details.</p>

The tenant ends the tenancy and does not take a new lease

Risks	<p>Finding other housing given the low rental vacancy rates.</p> <p>Homelessness.</p>
Benefits	Possibly no, or lower rent.
Considerations	<p>What housing options are available given the current rental market conditions? You may have limited options available to you.</p> <p>There are costs associated with ending a tenancy and moving into a new one. You may need to pay a security bond for the new premises, as well as two weeks' rent in advance. There is also the time you spend applying for premises, waiting to move and the costs of removalists and relocating.</p>
Pathways Forward	<p>If you want to move out of the property, you can both decide when this will happen.</p> <p>If your proposal suits the landlord, make arrangements now and agree on when they will apply.</p> <p>If you cannot agree, the tenant can terminate the agreement in the following circumstances:</p> <p>Fixed-term agreement – tenant must give the landlord at least 30 days' notice of termination of the fixed-term agreement. The date for vacant possession cannot be a date earlier than the end date of the fixed term.</p> <p>Periodic agreement – tenant must give the landlord at least 21 days' notice of termination. The tenant does not have to state a reason for terminating.</p> <p>If you do not vacate the premises in line with the termination notice, the landlord may apply to the court for an order terminating the agreement and for possession of the premises.</p>

The tenant starts a new lease

Risks	<p>May not be able to find a rental given the low rental vacancy rate.</p> <p>May not be able to afford rent.</p> <p>May not be able to meet landlord expectations long term.</p>
Benefits	<p>Conditions may be better.</p> <p>Rent may be cheaper.</p>
Considerations	<p>Cost of ending lease – in terms of money and inconvenience and starting a new tenancy (e.g. bond, connecting to utilities, moving expenses)</p>
Pathways Forward	<p>For more details about renting during the COVID-19 emergency period and beyond visit www.dmirs.wa.gov.au/covidrenting</p>

The tenant's agreement is terminated

Risks	<p>Lack of availability of other housing options given market conditions, potentially leaving a tenant homeless.</p> <p>Depending on the nature of termination, the risk of ending up on a tenancy database, or rental blacklist. This could jeopardise future rental applications.</p>
Benefits	<p>Could find better/cheaper property to rent sometime in future.</p> <p>Could live with family/friends rent free.</p>
Considerations	<p>Current rental market conditions – vacancy rate of 0.8 per cent.</p>
Pathways Forward	<p>What can be done to keep the tenancy – could you ask to take in a boarder or lodger to help pay rent?</p> <p>The Residential Tenancies Mandatory Conciliation Service can help tenants if they believe the termination is unlawful under the COVID-19 rent moratorium laws.</p> <p>If you are behind in paying rent the Residential Rent Relief Grant Scheme assists tenants who have rent debt during the emergency period by paying up to 75 per cent, up to \$4,000, of the accrued rent arrears incurred or waived as at 1 December 2020. See www.dmirs.wa.gov.au/covidrentgrant for details.</p>

Disclaimer – The information contained in this fact sheet is provided as general information and a guide only. It should not be relied upon as legal advice or as an accurate statement of the relevant legislation provisions. If you are uncertain as to your legal obligations, you should obtain independent legal advice.

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