

**Submission
No 6**

**RESIDENTIAL TENANCIES AMENDMENT (PROHIBITING NO GROUNDS
EVICTIONS) BILL 2024**

Name: Professor Alan Morris

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24 June 2024

Dear Select Committee members,

Re: Submission on the impacts of no-grounds eviction

My submission is based on a selection of excerpts from interviews with 30 private renters in New South Wales who are facing eviction or who have been evicted. The interviews were conducted in 2023 and 2024 as part of an Australian Research Council project titled 'Eviction: How private renters lose their homes and the consequences' (DP230100566). I am the lead Chief Investigator. All of the interviewees felt that no-grounds eviction disempowered them, was unfair and gave the landlord tremendous power. Tenants interviewed were aware that if the landlord followed the procedures required with respect to the notice period, there was no way of fighting a no-grounds eviction and that even if they decided to contest it at NCAT and were successful, the reprieve was invariably temporary.

It is evident that no-grounds eviction evokes a great deal of anxiety and stress. Towards the end of the lease and after the lease ends, tenants are constantly anxious as to whether they will be given a termination notice. This was especially so in the case of low-income tenants and tenants with children.

What follows is what interviewees said about the anxiety and stress generated by no-grounds eviction. This is followed by an illustration of how no-grounds eviction is used to force out tenants who the landlord views as difficult. This section also shows how no-grounds eviction silences tenants. They are concerned that if they are too vocal about issues concerning their rental property they could be viewed as difficult and antagonise the landlord. The final section shows how no-grounds eviction is used to evict tenants who are not prepared to pay the increased rent demanded. Although the submission is organised around these three themes, there is a good deal of overlap. Thus, in all instances, no-grounds eviction evokes significant anxiety and stress.

No-grounds eviction evoking anxiety and stress

Fiona, who has a range of health issues, had been in the same house in regional New South Wales for over 11 years. She was handed a no-grounds eviction notice by her landlord just before Christmas, 2023. When interviewed she was extremely stressed:

Yeah, so I have been here 11.5 years. In October the landlord mysteriously gave me a three-months lease with no explanation. I sent an email to the landlord via the real estate asking if you are not going to renew the lease can you let us know now so that we have appropriate time to look. That email was completely ignored. The lease wasn't renewed. We got given 30 days-notice which fell right during Christmas, so it was two weeks when all of the real estates were closed. We were supposed to be out by 14 January. We haven't been able to find

anywhere and are going to Tribunal on 29th ... I'm not going well. I have had suicidal thoughts over all of this.

Daniel (all the names used are pseudonyms) and his partner had been issued with a no grounds eviction after the townhouse they had been renting for three years was sold. He had experienced no-grounds eviction on several occasions in the past. When asked what were the impacts of constantly facing the possibility of no-grounds eviction his response was concerning:

The idea of suicide is perpetually in the front of my brain because I am so stressed over [it]. It was another big thing that happened that made everything difficult having to move and having to do all that, having to close my business which meant losing revenue there at a time when we were already struggling and having to come up with you know \$1,800 for a removalist to move everything, money for a cleaner, having to pull out you know \$3,000 odd from the business to pay for the rent and the ... rent in advance and the bond on the new place. It left me pretty much indebted up to the eyeballs and struggling and stressing and because as I said I have a lot of you know trauma response from this cos of how many times I've had to move ... [and] the impacts on my mental health, on my physical health, on everything are great and it just makes me very tired, depression, the anxiety to go along with it, the suicidal ideation, everything. It is a kind of thing where I'm now thinking once I get to the end of this 12-month period what's going to happen next ...

Simon had been in the same rental property for over ten years. Prior to being served with a no-grounds eviction he had taken his landlord to NCAT over what he felt was an unfair rent increase. NCAT ruled in his favour, but soon thereafter he was served with a no-grounds eviction. He felt that no-grounds eviction encouraged poor behaviour by agents and landlords. The possibility of being evicted for no reason was a source of constant anxiety.

I have been on the receiving end of pretty much just about every different form of coercive behaviour from real estate agents ... I just think it's incredibly unethical ... and the threat of no-grounds eviction and you experience a whole variety of coercive behaviour from real estate agents because that [no-grounds eviction] is always hanging over your head - that possibility of being evicted for no reason ... and the whole time I knew this was coming right and this is the thing like it just adds to the stress ... Like you know I'd lived there for 10 years by this point. It's my home. I don't necessarily want to leave ... I know all my neighbours. I know everyone on my street you know so I have an emotional connection to the place and the stress of like I'm going to be evicted is incredibly traumatic and constant.

No-grounds eviction and retaliation

Michael had been in the same apartment for 12 years and had never missed a rent payment. He was issued with a no-grounds eviction (it was subsequently rescinded) when he took in a neighbour who had been evicted after falling behind in his rent. Michael and his evicted neighbour had the same landlord:

I said to him [the neighbour], "Look if you get kicked out you come and stay at my place for a couple of nights". Well, he did get kicked out and he ended up

over at my house, but the thing was I didn't even know he was coming because I thought he'd sorted it all out with the real estate and so I got up in the morning, I went outside, and there is all his bags sitting outside my apartment door. ... I found out that he'd actually been kicked out by the owner that morning and three hours later I had a phone call from the real estate saying, "Michael you've taken him into your house after we had kicked him out and so you're out as well". Within three hours ... It absolutely was [shocking] and it's down to the no-grounds ... Basically [the landlord] he had thrown a wobbly and thrown me out and that sort of power you know just, yeah. You know, like I said, after \$155,000 of rent and having been here, a good tenant for 12 years, if that can happen to me you know ...

Philip had been renting in a small block (six units) in Sydney's inner west when he was given a no-grounds eviction notice. He felt it was due to him advocating for the grass to be cut and for the apartment block to be connected to the NBN:

We were like whatever, this [the connection to the NBN] is it's probably not going to happen [but] that's fine, we'll figure something else out. And then three weeks later I received a no-grounds termination notice from the real estate agent ... Yeah, cos I was the instigator ... We cared about it [the building]. We were happy to do work on it with him and to be his representative there ... but instead we got shafted.

Like Philip, Chris was convinced that he was issued a no-grounds eviction notice due to him being viewed as difficult by the landlord. Chris contested an unexpected and seemingly illegal rent increase and the condition of the property:

I didn't hear from her [the landlord] until about June ... and then she sent me through a revised lease saying, "Here's your 60 days' notice ... We're going to put the rent up by \$150 in 60 days". And so I wrote to her and said, "You know you can't put the rent up again you just put the rent up in February, ... You can't raise the rent till February next year". And then it was just met with silence. And then I got an email two days later saying, "I need to do an inspection next week", and so she came around and ... I just pointed out all these things that haven't been fixed in the 5.5 years we've been here and then she said, "Well yeah, that's all too bad, but look if you can't meet me on this rent increase then we're just going to have to give you notice to vacate" ... And so two days later she sent through the notice to vacate me ...

Fortunately, Chris and family found alternative accommodation fairly quickly, but he remains highly anxious about again being subject to no-grounds eviction:

Yes, for sure I think about it [the possibility of being evicted] every day for no good reason ... I was saying to my friend, "Four out of the last five places we've lived in, we've had a no-grounds eviction.

When interviewed Amanda and her husband and three children, "had been in six houses in about seven years". She described what happened with her last no-grounds eviction. Her landlord was extremely intrusive. He would come round constantly and blame them for things that were broken. Eventually they wrote a letter to the real estate agent requesting that the landlord stop dropping in unexpectedly. Amanda was convinced that this culminated in their lease not being renewed.

We started pushing back and then, as soon as the lease ended, he said, “Oh, I’m evicting you because I want to do maintenance in the property and I can’t do the maintenance with you living there” ... And we were starting to sort of find our voice and I think that really angered him. I don’t think he wanted us to find a voice.

Amanda was terrified of having to move again. She explained how no-grounds eviction silenced her:

I had this belief that you just stayed quiet and you don’t say anything, because they’ll kick you out if you ever say anything ... And you’re so scared of losing a home. And when you have children and especially now, like, you’re so petrified, because they’ve got school and all this stuff, you know, you’ve then got their community, their friendship, their sports group. To move, that just throws everything for you. You know, it’s so hard.

Raelene in regional New South Wales had been in the same house for eight years. She lived with her son and grandson. They were given a termination notice after she complained about major maintenance issues not being sorted. Raelene had no doubt that the eviction was in retaliation for her complaining:

We had a few problems with the house. They wouldn’t fix things ... I didn’t want to complain about it because the rental market’s tough and I knew as soon as I complained that they’d kick us out and that’s exactly what happened. Yeah, we had a leak in my grandson’s bedroom wall. Anyway, he got really sick from the mould ... We moved him out of the room ... We told the real estate about it [and] they got a plumber out. He cut big holes in the wall and then four months later it was still like that ... They changed real estate agent. Anyway, the new real estate come out ... and she said, “I’m going to get it all fixed”, and then a couple of days later I get a phone call to say, “Sorry, they want you out” ... Stress, you’ve got no idea ... It was a bit of a dick move kicking us out you know because we had the hide to complain ... Yeah, if I hadn’t have complained we’d still be there, yeah.

No grounds eviction used to raise the rent

Amy lived by herself in Sydney. The rent of the neighbouring apartment which is also owned by her landlord was increased significantly when her neighbour’s lease ended. Soon thereafter Amy was given a no-grounds termination. She was certain it was linked to the landlord’s realisation that he could raise her rent substantially once she moved out:

My impression was that cos the neighbour had left and they saw an opportunity to jack up the rent they weren’t able to do that with my apartment until what would have been July this year because of the 12 months requirement to increase a rent. They couldn’t put mine up again until July, but with giving me a no-grounds termination getting me out in three months in advance they could put it up from then.

Her mental health was seriously affected by the eviction:

It was a no-grounds termination. I did get the proper notice ... so they were giving me 90 days to leave but yeah, it was just like out of nowhere ... So that

was horrific, just getting that out of nowhere ... I mean 100% it's definitely been a huge stress for me ... I'm still trying to settle into this new place with that trauma of being uprooted all of a sudden ... I think it's probably going to affect me for a while and particularly in terms of just the power that real estates and landlords have to be able to do that. Like the fact that no-grounds terminations are still legal in NSW [New South Wales] is like baffling ... I was really shocked at the ongoing effect that it was having on my mental health. Like I didn't expect it to like continue to retraumatise [me] but it just comes up and up again.

After his rent was increased by \$170 a week, Paul tried to negotiate with the landlord, arguing that the increase was unreasonable. Soon thereafter he was given a no-grounds termination:

So I started renting in 2022 around May and then we got to January 2023 and at that point they communicated, "Up to you. This is what the rent increase is going to be, let us know if you want to sign a new lease". I responded saying, "That's a bit high. Can we negotiate the rent. Here's my reasons". I didn't hear back from anyone. I sent a few follow up emails ... and then I get an email from the real estate saying, "Here is your notice to vacate with no reasons ... You need to be out by this date".

Paul appealed to NCAT. He prepared a substantial and detailed submission, but his appeal was rejected. He found the no-grounds eviction and NCAT process extremely stressful:

Work supplies fixed counselling session with an external provider every year and I used all six. Yeah, it wasn't a very unpleasant process, even weeks afterwards ... It's getting me down. It was a big emotional wave for me ... Yes, it was a lot of anger but for me it was because I couldn't control the outcome at the end and it did take me by surprise.

When asked whether he was worried about being evicted once more, he responded,

Absolutely. So the place I'm in now I'm probably six months in and you know in five months or less than five months I might get told I'm going to have to move again just for no reason and is it just because they personally don't like me or do they just want to kick me out and increase the rent straightaway.

George and his partner were paying \$720 a week for their two-bedroom terrace. With no warning the rent was increased to \$850 a week and they were asked to sign a 12-month lease. When George and his partner endeavoured to negotiate with their landlord, arguing that they were prepared to pay \$850 if they could have a periodic agreement, they were sent a no-grounds eviction notice. George was in no doubt that the no-grounds eviction was in response to him and his partner endeavouring to challenge the rent increase:

What they [the landlord] did to us is to teach us a lesson – "Don't you dare pop your head above water. Know your place". We dared to negotiate our rent. How cheeky we were! The moment your landlord feels a power imbalance, it's time to be punished. I feel that kicking us out of our home for [us] negotiating rent decrease was a form of abuse ... While they were happy to give us a twelve-

month lease at a high rent increase, once we asked to negotiate we were told to leave. The lesson here is to never challenge authority and accept your place as subservient to the landlord.

Conclusion

It is evident that no-grounds eviction disempowers tenants and gives landlords enormous power, more especially in a tight rental market. The impact on tenants is often extremely negative. Tenants are often traumatised by the experience and subsequently often live in constant fear of once again being asked to vacate. Although NCAT does give tenants the capacity to challenge what they perceive as an unfair eviction, it is viewed as highly unpredictable. Also, there is an acute awareness that even if victorious, the landlord always has the capacity to ultimately evict you. The interviews with tenants who have been evicted clearly illustrate that no-grounds evictions are potentially extremely damaging and need to be scrapped as soon as possible.



Professor Alan Morris, 24 June, 2024.