

**Submission
No 26**

RESIDENTIAL TENANCIES AMENDMENT (PROHIBITING NO GROUNDS EVICTIONS) BILL 2024

Organisation: Central Coast Tenants' Advice and Advocacy Service

Date Received: 26 June 2024

Central Coast Tenants' Advice & Advocacy Service

SUBMISSIONS

To

Legislative Assembly Select Committee on the Residential Tenancies Amendment (Prohibiting No Grounds Evictions) Bill 2024

Background

1. The Residential Tenancies Amendment (Prohibiting No Grounds Evictions) Bill 2024 (the **Bill**) seeks to amend the *Residential Tenancies Act 2010* (NSW) (the **Act**) to prohibit no grounds terminations of residential tenancy agreements.
2. The Committee established to consider and report on the Bill have invited the Central Coast Tenants' Advice & Advocacy Service (**CCTAAS**) to make submissions on the provisions of the Bill, with inter alia, reference to:
 - a. the grounds for which an eviction is reasonable;
 - b. the appropriateness of evidence requirements to support reasonable grounds or a penalty scheme for those who falsely claim a reasonable ground; **and**
 - c. any unintended consequences, including on housing affordability and availability for renters and owners raised by this bill.
3. The Committee will note CCTAAS has not made any submissions regarding the inquiry into the 'jurisdictional comparison of no grounds evictions policies'.

Submissions

4. The Bill proposes amending the Act to require 'reasonable grounds' for the termination of a fixed term tenancy (section 84) and termination of periodic agreements (section 85).
5. CCTAAS makes the following submissions:

- a. it is appropriate for a landlord to provide reasonable grounds to evict a tenant, and CCTAAS supports the proposed amendments to the Act to omit the right of a landlord to evict a tenant on no grounds;
- b. the inclusion of reasonable grounds presents tenants with protection against eviction where currently no protection exists, save section 115 of the Act (retaliatory evictions);
- c. the requirement of a landlord to have a reasonable grounds to evict a tenant is a 'neutral' obligation, that raises for adjudication in the Tribunal (where necessary), the legitimacy of a claim to a reasonable grounds termination;
- d. any landlord seeking to evict a tenant on reasonable grounds must be required to provide documentary evidence in support of the landlord's stated reason(s) simultaneously with the service of the landlord's notice to of termination on the tenant;
- e. a tenant must be presented with such supporting documentary evidence to allow any dispute to be promptly adjudicated by the Tribunal without prejudice to either party's rights;
- f. failure of the legislature to require the landlord to simultaneously produce supporting documents evidencing compliance with the proposed provisions will invariably:
 - i. be a drain on the State's resources (and capacity) due to an increase in matters being brought before the Tribunal;
 - ii. prejudice the tenant to the extent that necessity and desperation (including being under undue threat of eviction without due process) may lead to vacant possession being given to the landlord in circumstances where the tenant may not have been under any legal obligation to do so; and
 - iii. create for the parties, to a dispute about the legitimacy of a reasonable grounds claim, the probability of engaging in the burden of a dispute where the eventual outcome is desired by neither party;
- g. the current and proposed 90 days notice period for reasonable grounds evictions is not sufficient, as it does not provide tenants adequate time to seek and obtain adequate housing. It is our experience that evictions on 90 days notice are increasingly occurring under order of the Tribunal because willing tenants are unable to secure an alternative tenancy due to record low vacancy rates;
- h. for this reason, notice periods for reasonable grounds:
 - i. where an 'individual' landlord or a person 'associated' with a landlord should be extended to at least 120 days;
 - ii. where the landlord requires the premises to perform repairs and renovations should be at least 6 months;
 - iii. where the landlord intends for the premises to have a change in use should be at least 6 months;

- i. the extension of notice periods will act as an incentive to landlords to fulfil their general obligations under the Act to present a tenant the premises in a reasonable state of repair and cleanliness, and act as a deterrent to evict tenants as a means to avoid that obligation during the course of a tenancy;
- j. notice periods under section 86 (sale of premises) should be extended to not less than 90 days, as 30 days notice is wholly unreasonable and obligates a tenant to give vacant possession on a time frame that is practically impossible to achieve;
- k. the proposed pecuniary penalty for offences (non-compliance by the landlord) is adequate however in order to act as a deterrent to other landlords, there must be enforcement action brought;
- l. that any application of a tenant seeking to retain a tenancy through order of the Tribunal due to non-compliance of a landlord, is condition precedent on the right of a tenant (see d. above) to bear witness to (and dispute) the legitimacy of the supporting evidence/ reasons for the landlord seeking to evict the tenant;
- m. a tenant's right to compensation is an appropriate award for a landlord's non-compliance with the reasonable grounds provisions and should act as a deterrent to recalcitrant landlords;
- n. there is no practicality of providing the Tribunal power to:
 - i. in effect, 'reinstate' a tenant where a tenant may have already provided vacant possession to the landlord. The power to make an order giving future rights to a tenant must have regard to the ability of the tenant to seek such order while still in possession;
 - ii. order a landlord or their 'associated' person to occupy the residential premises where the landlord has falsely claimed that as the purpose of the eviction. It is foreseeable that, by example, a landlord acting fraudulently may in the intervening period take a new tenant into the residential premises under a separate residential premises;
- o. a landlord seeking to evict a tenant in order to take possession for their own use (or their 'associated' person), must be prohibited from sub-letting the premises (or any part thereof); **and**
- p. the attached 'case studies' evidence the nature and effect the current no-grounds provisions of the Act has on tenants and serve only as an example of experiences of tenants today.

Ben Read

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Central Coast Tenants' Advice and Advocacy Service

26 June 2024

No Grounds Case Studies

Case Study 1

- The tenant is a wheelchair bound recipient of NDIS and resides in a purpose-built apartment close to services, including a hospital.
- The landlord is a NDIS housing provider.
- The tenant had over the course of the tenancy raised concerns regarding mould (repairs), resulting in a notice of termination on no grounds being issued.
- The landlord disputed retaliation as the reason for the termination and the matter was brought before the Tribunal on the tenant's application.
- The tenant has specific needs that cannot be accommodated in the private rental market and would face on eviction the enormous strain and burden of finding suitable accommodation.
- In Tribunal the landlord and the tenant disputed whether the no grounds notice was issued for retaliatory reasons, as it was asserted by the tenant that the landlord wished to avoid the costs of the repairs needed.
- The landlord had no obligation or burden to provide a reason for the eviction.
- With the assistance of CCTAAS as duty advocate the matter was resolved by consent where an order was made requiring the tenant to give vacant possession in 8 months, as the tenant had in the intervening period managed to secure a suitable premises in February 2025.

Case Study 2

- The tenant lives in a 2-bedroom unit and pays minimal rent.
- The tenant has been in possession for 7 years with no issues raised by the landlord regarding the tenant's use of the premises.
- For 2 years the tenant has been engaged in family court litigation regarding the custody of his school age son.
- Through order of the family court the tenant was awarded custody of his son and for the past 6 months the son has been enrolled in the local public school and enjoyed making friends.
- In early July the landlord issued a no grounds notice of termination.
- There are absolutely no premises advertised in the same area available at a sustainable price range.
- The tenant faces immense pressure in finding a premises to rent and is fighting an uphill battle to avoid having to relocate, including the transfer of schooling for his son.

Case Study 3

- The tenant is living alone in the premises by agreement with the landlord for the past 3.5 years.
- The tenant has severe PTSD arising from childhood trauma and supported financially courtesy of the provision of a disability pension.
- The tenant has never missed a rental payment.
- The tenant has been issued a no grounds notice of termination (with no reason given).
- The tenant has a stated need to live alone due to mental health issues.
- The tenant has been homeless in the past and is terrified of this happening again.

- The tenant pays low rent and there is no likelihood that the tenant will secure another rental premises on his income.
- The tenant is distressed and scared of the prospect of being made homeless.

Case Study 4

- The tenant is an 80-year-old woman.
- The tenant has been in possession of the premises for 13 years and resides alone.
- In June the tenant was issued with a no grounds notice of termination (with no reasons given).
- The tenant is not on a social housing register.
- The tenant has applied for numerous residential premises without luck and is extremely concerned about what the future holds.

Case Study 5

- The tenants are a couple with dependent children.
- In June the tenants were issued with a no ground notice of termination.
- The tenants are a single income family.
- The tenants have applied for over 30 residential premises lists for rent.
- The tenants are concerned about being made homeless and the implications for their children, as they are quickly running out of time to find alternative accommodation.

Case Study 6

- The tenants are a couple with 5 dependent children, the oldest being 18 years old.
- The tenants have been in possession for 4 years and have been issued with a no grounds notice of termination.
- The landlord claims they wish to demolish the premises and have done nothing to maintain or repair the premises during the term of the tenancy despite the tenants' repeated complaints.
- The tenants believe the eviction is due to the tenants having 5 dependants.
- The tenants' efforts to apply for a suitable rental have been unsuccessful, and the tenants concern is that no landlord will entertain such a big family.