COSTS ANALYSIS OF VARIOUS MODELS OF TERMINATION OF A TENANCY FOR FDV

Termination of Tenancy Agreement by Notice

(as proposed in the Amendment Bill)

Tenant issues notice of termination - period of notice is seven days



Lessor Issues copy of notice to co-tenants who have seven days to notify lessor of their intentions



Co-tenant(s) give 21 days notice of termination

Lessor certain of availability to re-let at day 14

KEY POINTS

- Lessor receives rent from tenant and/or co-tenant(s) throughout process:
- If co-tenant(s) nominate to remain in the tenancy, no impact on the lessor;
- If the co-tenant(s) terminate the tenancy agreement, lessor has 21 days minimum to secure new tenants;
- Current average vacancy period for Perth tenancies is 49 days (seven weeks) (REIWA data) – therefore worst case scenario potential impact on lessor of 28 days' rent (seven weeks vacancy period, less three week notice period during which co-tenants are paying rent equals four weeks).

Estimate of lessor costs

If there are co-tenants

Loss of rent while vacant: 4 weeks x \$350*= \$1400

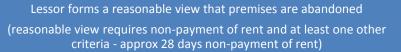
If there are no co-tenants

Loss of rent while vacant 6 weeks x \$350 = \$2100

Abandonment of Premises

(only option for some victims of FDV if third party evidence is not allowed)

Tenant abandons premises - ceases paying rent



Lessor issues notice to inspect and secure premises (24 hours notice period)

Lessor may issue tenant with a notice that lessor is terminating the agreement because the tenant has abandoned the premises (seven days notice)

Lessor certain of availability to re-let after day 37

KEY POINTS

- In order for premises to be considered abandoned, tenant must cease paying rent, therefore lessor is without rent until premises are re-let;
- Instead of issuing the tenant with a notice of termination, the lessor may apply to
 the court for an order that the premises have been abandoned. This will be a
 significantly longer process (see next column) and therefore has not been
 factored into these costings; however there are times where a lessor will want
 the certainty of a court order rather than relying on their own assessment that
 premises have been abandoned;
- To form a reasonable view that premises have been abandoned, the Act requires
 there to be non-payment of rent and other indicators. A reasonable view could
 not be formed upon the rent being one day late. Therefore, it is likely that several
 cycles of rent (generally fortnightly cycles) would need to be missed before a
 reasonable view could be formed;
- Lessor is not reasonably able to seek new tenants until after seven day notice period has expired.
- Abandonment of premises can give rise to a tenant being listed on a tenancy database. These listings remain for three years.

Estimate of lessor costs

Loss of rent while forming reasonable view that premises is abandoned $4 \times $350 = 1400

Loss of rent during notice period 1 x \$350 = \$350

Loss of rent while vacant: 7 weeks x \$350= \$2450

Total estimated cost to lessor in lost rent \$4200

Termination by Court Order only

Tenant applies to court for an order terminating their interest in the tenancy agreement



Matter is heard by Registrar at first mention (average of 36 days in Perth Court)



If matter is not settled by conciliation with the Registrar, matter set down for hearing at next available date (average of 76 days in Perth)

Lessor certain of availability to re-let after day 112

KEY POINTS

- Although lessor is entitled to receive rent from tenant throughout process, the
 consequence of this is that a victim of FDV may be forced to remain in the
 premises or become homeless during this period due to an inability to pay rent at
 two premises, or alternatively the tenant stops paying rent to this lessor in order
 to be able to secure new premises, which could mean the lessor is without access
 to rent until the premises are re-let
- This is a lengthy process which has no certain outcome therefore the lessor is realistically not able to seek new tenants until court has made an order terminating the tenancy agreement
- In the Perth court year to date, the average length of time from application to first mention is 36 days. If the matter does not settle at that date, the average wait to hearing from the first mention is a further 76 days;
- If this model were to be implemented, wait times for all tenancy matters in the court would be negatively impacted;
- Lessors or their property managers will be required to attend court. This involves not only the individual's time, but if the property manager attends, the lessor will incur a fee for their attendance.

Estimate of lessor costs

Property manager attendance at court \$500

Loss of rent from date of hearing until re-let: 7 weeks x \$350 = \$2450

Total estimated cost to lessor \$2950 if tenant continues to pay rent during court proceedings. If tenant ceases paying rent in order to avoid homelessness and further violence, total estimated cost to lessor is \$8550 (112 days from application to full hearing)

^{*} Perth median rent \$350 (Source: REIWA.com) https://reiwa.com.au/the-wa-market/perth-metro/ accessed on 13 June 2018