

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

Termination of Tenancy Agreement by Notice (as proposed in the Amendment Bill)	Abandonment of Premises (only option for some victims of FDV if third party evidence is not allowed)	Termination by Court Order only
<div style="text-align: center;"> <div style="background-color: #4a7ebb; color: white; padding: 5px; margin-bottom: 10px;">Tenant issues notice of termination - period of notice is seven days</div> <div style="font-size: 2em; margin: 0 0 10px 0;">↓</div> <div style="background-color: #4a7ebb; color: white; padding: 5px; margin-bottom: 10px;">Lessor Issues copy of notice to co-tenants who have seven days to notify lessor of their intentions</div> <div style="font-size: 2em; margin: 0 0 10px 0;">↓</div> <div style="background-color: #4a7ebb; color: white; padding: 5px; margin-bottom: 10px;">Co-tenant(s) give 21 days notice of termination</div> <div style="background-color: #e67e22; color: white; padding: 5px; margin-top: 10px; font-weight: bold;">Lessor certain of availability to re-let at day 14</div> </div> <p>KEY POINTS</p> <ul style="list-style-type: none"> 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). <div style="border: 1px solid black; padding: 5px; margin-top: 10px;"> <p>Estimate of lessor costs</p> <p><u>If there are co-tenants</u></p> <p>Loss of rent while vacant: 4 weeks x \$350* = \$1400</p> <p><u>If there are no co-tenants</u></p> <p>Loss of rent while vacant 6 weeks x \$350 = \$2100</p> </div>	<div style="text-align: center;"> <div style="background-color: #4a7ebb; color: white; padding: 5px; margin-bottom: 10px;">Tenant abandons premises - ceases paying rent</div> <div style="font-size: 2em; margin: 0 0 10px 0;">↓</div> <div style="background-color: #4a7ebb; color: white; padding: 5px; margin-bottom: 10px;">Lessor forms a reasonable view that premises are abandoned (reasonable view requires non-payment of rent and at least one other criteria - approx 28 days non-payment of rent)</div> <div style="font-size: 2em; margin: 0 0 10px 0;">↓</div> <div style="background-color: #4a7ebb; color: white; padding: 5px; margin-bottom: 10px;">Lessor issues notice to inspect and secure premises (24 hours notice period)</div> <div style="font-size: 2em; margin: 0 0 10px 0;">↓</div> <div style="background-color: #4a7ebb; color: white; padding: 5px; margin-bottom: 10px;">Lessor may issue tenant with a notice that lessor is terminating the agreement because the tenant has abandoned the premises (seven days notice)</div> <div style="background-color: #e67e22; color: white; padding: 5px; margin-top: 10px; font-weight: bold;">Lessor certain of availability to re-let after day 37</div> </div> <p>KEY POINTS</p> <ul style="list-style-type: none"> 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. <div style="border: 1px solid black; padding: 5px; margin-top: 10px;"> <p>Estimate of lessor costs</p> <p>Loss of rent while forming reasonable view that premises is abandoned 4 x \$350 = \$1400</p> <p>Loss of rent during notice period 1 x \$350 = \$350</p> <p>Loss of rent while vacant: 7 weeks x \$350 = \$2450</p> <p>Total estimated cost to lessor in lost rent \$4200</p> </div>	<div style="text-align: center;"> <div style="background-color: #4a7ebb; color: white; padding: 5px; margin-bottom: 10px;">Tenant applies to court for an order terminating their interest in the tenancy agreement</div> <div style="font-size: 2em; margin: 0 0 10px 0;">↓</div> <div style="background-color: #4a7ebb; color: white; padding: 5px; margin-bottom: 10px;">Matter is heard by Registrar at first mention (average of 36 days in Perth Court)</div> <div style="font-size: 2em; margin: 0 0 10px 0;">↓</div> <div style="background-color: #4a7ebb; color: white; padding: 5px; margin-bottom: 10px;">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)</div> <div style="background-color: #e67e22; color: white; padding: 5px; margin-top: 10px; font-weight: bold;">Lessor certain of availability to re-let after day 112</div> </div> <p>KEY POINTS</p> <ul style="list-style-type: none"> 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. <div style="border: 1px solid black; padding: 5px; margin-top: 10px;"> <p>Estimate of lessor costs</p> <p>Property manager attendance at court \$500</p> <p>Loss of rent from date of hearing until re-let: 7 weeks x \$350 = \$2450</p> <p>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)</p> </div>

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