



## Terminating leases – I'll be back?

The relationship between landlord and tenant is usually governed by a written lease agreement setting out the terms and conditions on which the tenant can occupy the landlord's property.

As is the case with most relationships, there is the potential for things to turn sour and the lease instrument provides avenues for both the landlord and tenant to remedy concerns.

Problems arise however when one party attempts to exercise their rights under the lease without complying with all necessary steps to do so.

A common example is when a landlord purports to evict a tenant for breach of a term under the lease (such as using the property in a manner not permitted under the lease or failing to keep the property in a good state of repair and condition) and simply locks the tenant out of the premises.

Whilst a landlord may believe they are entitled to take such steps, in fact a landlord is not able to re-enter the premises and take possession without first having issued a notice to the tenant under section 129 of the *Conveyancing Act 1919* (NSW).

The notice must:

- specify the particular breach complained of by the landlord; and
- give the tenant an opportunity to rectify the breach (if possible to do so).

If the tenant fails to remedy the breach within a reasonable time, only then is the landlord able to validly enforce their right to re-enter the property.

This example illustrates that compliance with the terms of any Lease instrument and legislation governing leasing is integral to ensuring the relationship of landlord and tenant continues smoothly. This process is assisted by both parties being familiar with the terms of the Lease agreement.

The experienced team at Everingham Solomons can assist both landlords and tenants in reviewing lease agreements to ensure all parties are aware of their rights because *Helping You is Our Business*.



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