

What is a Service Tenancy?

A service tenancy is when an employer provides accommodation for a worker to live in during their employment.

This type of agreement is covered by the Residential Tenancies Act 1986 (RTA), which means all the standard rules apply, except for a couple of differences about **rent** and **ending a service tenancy**.

■ Example of a Service Tenancy

Sarah is a horticulture worker who has just secured a new job as a farm manager. As part of her new role, she is given a flat to live in on site. On the tenancy agreement, Sarah is named as the tenant and her employer is named as the landlord. Included in the tenancy agreement is the insurance statement, insulation statement (which is part of the healthy homes compliance statement, required from 1 December 2020) and the intent to comply statement for the healthy homes standards.



What do you need for a Service Tenancy?

As part of a service tenancy, certain requirements need to be met including:

- » A tenancy agreement signed by the employer (as landlord) and the employee or contractor (as tenant) (this can be included in your employee or contractor agreement contract, though we recommend having these separate).
- » Working smoke alarms or detectors within three metres of each bedroom door, or in every room where a person sleeps
- » Insurance statement
- » Intent to comply statement for the healthy homes standards
- » Ceiling and under floor insulation and an insulation statement (which are parts of the healthy homes compliance statement, required from 1 December 2020)

The Tenancy Services website has a checklist that landlords can use to make sure their properties are compliant, available at [tenancy.govt.nz/landlord-compliance-checklist](https://www.tenancy.govt.nz/landlord-compliance-checklist)

Rent payments

The landlord may take the rent directly from the tenant's pay each week or fortnight. They can only do this if:

- » the tenant agrees;
 - » it is in the employment contract; or
 - » it complies with employment law.
- » If there is a longer pay period (eg, due to a holiday) the landlord can deduct the rent for that same longer period.

■ Example of other living arrangement

Certain living arrangements between an employer and employee might not be a Service Tenancy. For example, David is a dairy farmer who has just employed someone to milk his cows. David has offered his new employee a room in his own house as accommodation. This would be considered a flat sharing arrangement. For more information on flat-sharing, see [tenancy.govt.nz/flatting](https://www.tenancy.govt.nz/flatting)

Ending a service tenancy

A service tenancy normally ends when the tenant’s employment or engagement ends. The notice period is different to other tenancies or is transferred.

If the tenant’s employment is ending

The landlord or the tenant must give at least 14 days’ written notice to end the tenancy. This notice can only be given if the tenant’s employment has ended or either party has given notice for it to end.

In some situations, if the tenant’s employment has ended the landlord can give less than 14 days’ notice for the service tenancy to end. This also applies if the tenant is transferred with less than 14 days’ notice. This can only happen if:

- » the landlord has reason to believe the tenant will cause substantial damage to the premises if the tenancy is permitted to remain for 14 days
- » the landlord’s business needs to have a new worker in place in less than 14 days. There must be no other suitable accommodation available for the new worker during the 14 days.

If the tenant’s employment or engagement is continuing

- » If the tenant wants to end their tenancy before their employment has ended, they must give 28 days’ written notice.

A landlord can only give notice to end a service tenancy if the tenant’s employment or engagement has ended or is due to end. A notice to end the service tenancy cannot generally take effect before the employment or engagement ends or before the transfer occurs.

Giving notice for Family Violence

A tenant who is subjected to family violence during a tenancy can withdraw from their tenancy by giving at least two days’ notice (with qualifying evidence of family violence) without financial penalty or the need for agreement from the landlord.

Giving notice for Physical Assault

The landlord can give notice of at least 14 days to terminate a tenancy if the tenant has assaulted the landlord, the owner, a member of the landlord or owner’s family, or the landlord’s agent, and evidence is provided that a charge has been filed by Police against the tenant in respect of the assault.

Important Dates

Landlords and tenants should both understand these dates for complying with rental law.

1 JUL 2016		Smoke alarms required & insulation requirements introduced. Insulation statements are compulsory on any new Tenancy Agreement.
12 DEC 2018		Tenants can no longer be charged letting fees. A letting fee is normally charged by letting agents or solicitors and covers costs such as listing and advertising, showing houses and vetting potential tenants.
1 JUL 2019		Ceiling and underfloor insulation compulsory in all rental homes. Residential Tenancies (Healthy Homes Standards) Regulations 2019 becomes law with 2-4 years to comply.
27 AUG 2019		Residential Tenancies Amendment Act 2019 becomes effective. See tenancy.govt.nz/laws-and-bylaws for more information.
1 JUL 2021		Private landlords must comply with the healthy homes standards within certain timeframes. All boarding houses must comply with the healthy homes standards. Statement of current level of compliance with the healthy homes standards must be included in any new or renewed tenancy agreement.
1 JUL 2024		All Kāinga Ora (formerly Housing New Zealand) houses and registered Community Housing Provider houses must comply with healthy homes standards.
1 JUL 2025		All rental homes must comply with healthy homes standards.

Further Information

Insulation

Ceiling and underfloor insulation has been compulsory in all rental homes since 1 July 2019 under the RTA. Landlords who do not have insulation installed in the ceiling and under the floor, where it is reasonably practicable to install it, are committing an unlawful act and may be liable for exemplary damages of up to \$4,000.

Laws and bylaws

The RTA requires landlords to provide and maintain rental properties in a reasonable state of repair. What's considered 'reasonable' depends on the age and character of the property and how long it's likely to remain habitable and available to be lived in.

The RTA also requires landlords to provide properties in a reasonable state of cleanliness.

You will also need to be across these other health-related and safety-related requirements as part of providing a service tenancy too, for example:

- » Building Act 2004 and the Building Code
- » Health Act 1956
- » Housing Improvement Regulations 1947
- » Bylaws made under the Local Government Act 2002. These are set by individual councils.
- » Residential Tenancies (Healthy Homes Standards) Regulations 2019

Breaches of the RTA

If you think your tenancy is in breach of the RTA, it's important to know what your options are. If you are unable to reach an agreement with your tenant or landlord, you may need to take further action including applying to the Tenancy Tribunal. See tenancy.govt.nz/disputes/tribunal/

Healthy homes compliance timeframes

Between 1 July 2021 and 1 July 2025, all private rentals must comply with the healthy homes standards within certain timeframes depending on when the new tenancy starts or is renewed. For more information on the healthy homes standards, see tenancy.govt.nz/healthy-homes/

More info

If you want to know more about Service Tenancy and other tenancy law see tenancy.govt.nz



tenancy.govt.nz