



RESIDENTIAL TENANCIES AMENDMENT ACT 2020

RENT ARREARS

A new section (55)(1)(aa) of the Residential Tenancies Act 1986 (RTA) provides landlords with an additional option for responding to rent arrears during a periodic tenancy.

This new section of the RTA was introduced through the Residential Tenancies Amendment Act 2020 and takes effect from 11 February 2021.

It is additional to existing provisions under sections 55 and 56 of the RTA, which gives landlords the ability to seek termination of a tenancy in certain situations, including unpaid rent. Visit this page for more information about the existing ways to deal with unpaid rent: www.tenancy.govt.nz/rent-bond-and-bills/rent/overdue-rent/

Details about how landlords may charge rent and how tenants pay rent can be found here: www.tenancy.govt.nz/rent-bond-and-bills/rent/charging-rent

The following information explains the new additional option available from 11 February 2021 to landlords of periodic tenancies when there is unpaid rent.

Landlords may now apply to the Tenancy Tribunal to terminate a periodic tenancy if the following three steps occur:

1. On three separate occasions within a 90-day period an amount of rent that was due has remained unpaid for at least five working days.

Example of a separate occasion

Rent is due on 10 July. If, after five working days, some, or all, of the rent that was due on 10 July has not been paid, the landlord may issue a Notice of overdue rent.

A second Notice of overdue rent can be served if rent falls due again and that rent, or a part of it, has not been paid within five working days of the second due date. The second notice can be served regardless of whether the rent due under the first notice has been paid.

A third Notice of overdue rent can be served in the same way as a second notice.

2. On each occasion the landlord gave the tenant written notice advising them of the unpaid rent. The written notice must include:
 - the amount of overdue rent
 - dates for which the rent was/is overdue
 - the tenant's right to make an application to the Tenancy Tribunal challenging the notice
 - how many other notices of overdue rent the landlord had given the tenant in the relevant 90-day period that met these requirements.

Download a 'Notice of overdue rent' template here:
www.tenancy.govt.nz/assets/forms-templates/notice-of-overdue-rent.docx

3. The landlord can then file an application to the Tenancy Tribunal within 28 days after the third notice was given to the tenant. The landlord will have to prove that rent was due and remained unpaid for at least five working days on three separate occasions within a 90-day period and that the three notices given met the requirements above.

See www.tenancy.govt.nz/disputes/tribunal for applications to the Tenancy Tribunal.

NOTE: A tenant may challenge the notice(s) by making an application to the Tenancy Tribunal. The tenant will have to prove that the rent was not five working days overdue or that a notice didn't meet the requirements above.