

Residential Tenancies and Rooming Accommodation Act 2008

Chapter 5 Ending of agreements

Part 1 Ending of residential tenancy agreements

Division 7 Recovery of possession of premises

350 Issue of warrant of possession

- (1) If a tribunal makes a termination order on an application made other than by a tenant, it also must issue a warrant of possession.
- (2) If the termination order is made on an application made because of excessive hardship, as well as issuing the warrant of possession, the tribunal may make any other order it considers appropriate including, for example, an order that the applicant pay compensation to the other party to the agreement for the other party's loss of the tenancy.

351 Warrant of possession

- (1) A warrant of possession must—
 - (a) authorise a police officer, or a stated authorised person, to enter the premises and give possession of the premises to the person in whose favour the termination order was made; and
 - (b) authorise the person to whom the warrant is directed to exercise the powers under the warrant with necessary and reasonable help and force; and
 - (c) state the hours of the day when entry may be made; and
 - (d) state the day the warrant ends.
- (2) The registrar must give written notice of the issue of a warrant of possession to the former tenant as soon as practicable after the warrant is issued.
- (3) If the registrar can not comply with subsection (2) after reasonable efforts (whether before or after the warrant is executed), the validity of the warrant is not affected merely because of the noncompliance.
- (4) A warrant of possession takes effect on the day stated in the warrant for it to take effect and ends—
 - (a) if paragraph (b) does not apply—14 days after it takes effect; or
 - (b) if the tribunal is satisfied that, because of special circumstances, the warrant should continue until a later day stated in the warrant—on the later day.

Examples of special circumstances under subsection (4)(b)—

 - 1 natural disasters, including floods, affecting the area in which the premises are located
 - 2 the remoteness of the premises
- (5) However, the day on which the warrant takes effect must not be later than 3 business days after it is issued.
- (6) If a warrant of possession (the **original warrant**) is lost or destroyed before it ends, the registrar may issue a copy of the warrant.
- (7) A copy of a warrant issued under subsection (6)—
 - (a) has effect as if it were the original warrant; and
 - (b) is taken to have been issued when the original warrant was issued; and
 - (c) ends when the original warrant ends.

352 Execution of warrant of possession

The person to whom a warrant of possession is directed may exercise the powers under the warrant in the way stated in the warrant.

353 Way of recovering possession of premises

- (1) This section applies to premises in the possession of a person—
 - (a) as the tenant under an agreement; or
 - (b) as the former tenant under an agreement holding over after termination of the agreement.
- (2) A person must not recover possession of the premises other than in a way authorised under this Act.
Maximum penalty for subsection (2)—50 penalty units.

354 Obstruction of person executing warrant of possession

A person must not obstruct a person in the exercise of a power under a warrant of possession, unless the person has a reasonable excuse.
Maximum penalty—50 penalty units.