

## 3.04 Locks and Security

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### How secure does the owner have to make the place?

Under the *Residential Tenancies Act* (1987) WA, in relation to a rented property the owner must provide and maintain locks or any other devices needed to make the premises reasonably secure (s.45 (1)(a)). 'Other devices' may include windows which can be secured properly. The *Residential Tenancies Act* does not give a definition of "reasonably secure". The definition will depend on the circumstances of each case. The *Residential Tenancies Act* allows for the owner/agent to exclude or modify their responsibility to provide reasonable security. Make sure you check for this in your Tenancy Agreement.

### What if my place is not secure?

If you believe your rental property is not reasonably secure, you may be able to ask the owner/agent to take steps to provide better locks or 'other devices'. Before you write to the owner/agent about a security problem (see Chapter [3.13 Writing a Letter to the Owner/Agent](#)), you should begin by checking your Tenancy Agreement for special conditions relating to the security of your property.

Writing a letter may be important later if you have to prove you told the owner/agent about the problem (see the section "Can I be compensated if I suffer a loss?" below).

There are a few steps you may be able to take to support your argument that the premises are not reasonably secure:

- Contact your local neighbourhood watch committee or police station for an opinion and for statistics on crime in your area. Ask also what they recommend for adequate security.
- Check what security conditions insurance companies require for contents insurance at your place. Ask the insurance company to write to you about what they consider would be necessary to make the premises reasonably secure (Note: insurance standards can sometimes be higher than what is seen to be the owner's responsibility).

### What if the owner won't make my place secure?

If the owner/agent does not agree with you and won't fix the problem, you can apply to the Magistrates Court and ask for a decision on what is fair in the circumstances (see chapter [6.04 Going to Court](#) for more information).

### Can I be compensated if I suffer a loss?

If the owner does not provide premises which are reasonably secure and your premises are burgled as a result, you can apply to the Magistrates Court for an order that the owner pay you compensation for any goods stolen or damaged.

Your claim would relate to two sections of the *Residential Tenancies Act*:

- Section 45 (1)(a) which says the owner must provide locks or other devices to make the premises reasonably secure; and
- Section 15 (2)(c), under which you can claim compensation for loss or injury (other than personal injury) incurred as a result of breach of the tenancy agreement.

If you want to apply to the court for compensation, it may be important to be able to prove that the owner/agent knew that the premises were not reasonably secure but did nothing about it. It will help if you have copies of letters sent to and from the owner/agent, and/or a witness. For further information see Chapter [3.12 Compensation for Loss Incurred due to a Breach by the Owner](#).

## Changing the locks

There are rules about changing the locks in rented property. Locks can only be changed with permission from the other person (owner or tenant depending on who wants to change the locks) **beforehand** or under the authority of a court order.

**Changing the locks unlawfully is a serious breach of tenancy law.**

You are not allowed to alter, remove or add any locks or other devices without the owner/ agent's permission (s.45(1)(b)) or an order from the court. If you do you are in breach of the *Residential Tenancies Act* and may be liable for a penalty of \$4,000.

Similarly, the owner could face a penalty of \$4,000 if they alter, remove or add any locks or other devices without your permission (s.45(2)) or an order from the court.

**The owner/agent is not allowed to change the locks without your agreement or an order from the court.**

## What if I change the locks unlawfully?

The owner may send you a [Notice of Breach of Agreement](#), giving you 14 days to change the locks back or supply a key for the new lock. If the breach notice is not complied with within 14 days, the owner may seek an order from the court that you fix the problem or they may serve a [Notice of Termination of the Agreement](#). See chapters [3.08 When the Tenant is in Breach of the Agreement](#) and [4.03 Ending the Tenancy When the Tenant Breaches the Agreement](#) for more information.

## Can I go back in if the locks are changed unlawfully?

You are entitled to re-enter the property if the locks are changed by the owner/agent without your permission or without an order from the court. The difficulty is knowing the best way to go about it.

You may be able to get a locksmith to assist you to regain access to the property and to provide a key to the new locks that were unlawfully changed by the owner/agent. Keep receipts for any payments you make to the locksmith.

Make an urgent application to the Magistrates Court requesting an order that you be given keys to the premises so you can regain possession of the property. You may also request an order to be compensated for any losses incurred by the lockout.

Compensation may be claimed from the owner/agent for the cost of entry and any expense incurred due to being locked out, for example alternative accommodation or locksmith fees. See chapter [3.12 Compensation for Loss Incurred Due to a Breach by the Owner](#) for more information.

In any event, you should also make a complaint to the Department of Commerce (Ph: **1300 30 40 54**) who can investigate the unlawful lockout by the owner/agent, and negotiate on your behalf with the owner/agent for you to regain possession of the property.

**Contact Tenants Advice Service for more information.**

**List of Tenants' Rights Manual chapters referred to in this information sheet:**

- [3.08 When the Tenant is in Breach of the Agreement](#)
- [3.12 Compensation for Loss Incurred due to a Breach by the Owner](#)
- [3.13 Writing a Letter to the Owner/Agent](#)
- [4.03 Ending the Tenancy When the Tenant Breaches the Agreement](#)
- [6.04 Going to Court](#)

**DISCLAIMER: This is a sample letter only. You should write your own letter telling your own story in your own words (See Chapter 3.13 Writing a Letter to the Owner/Agent for information on writing your own letter.)**

### **SAMPLE LETTER**

Mr P Owner  
15 Hill Street  
West Coast WA 6666

1 February 2010

Dear Mr Owner

**\*\* WITHOUT PREJUDICE**

**Re: Locks and Security**

I refer to our discussions about the lack of window locks and the faulty back door lock at the property I am renting at 136 Resident Street, Newtown. I confirm that I have informed you that I do not believe the locks provided with the property are enough to make the place reasonably secure. It is my understanding that you disagree.

I have been advised that Section 45 of the Residential Tenancies Act (1987) WA requires the owner to provide locks or other devices which are necessary to make the property reasonably secure.

My insurance company has informed me that I cannot get insurance for my belongings at the property because there are no deadbolts on the doors, and no locks on the windows. Clearly they are of the opinion that the property is not reasonably secure.

I have also spoken to our local police branch. They say that deadbolts and window locks are essential to make the property reasonably secure. I have also spoken to our local neighbourhood watch representative and he told me the same thing as the police.

You can appreciate the urgency in fixing this problem. I request that you provide the necessary locks and devices within 7 days. Please be advised that I intend to apply to the Court for a performance order if this is not done. Please also be aware that if I suffer any loss as a result of your failure to provide the locks I will hold you responsible and seek compensation under section 15 of the Residential Tenancies Act.

Yours faithfully

Mrs J Tenant  
136 Resident Street  
Newtown WA 6666

**\*\* PLEASE NOTE:** You may choose to write *'Without Prejudice'* on a letter to the owner/agent, however you need to understand the legal implications of doing so.

*'Without Prejudice'* is a statement made *without an intention to affect the legal rights of any person*. This means you can write a letter using *'Without Prejudice'* and it cannot be used in court as evidence against you. You can still bring the letter into court but you cannot give it to the Magistrate as evidence. You can verbally refer to it but only to show that you tried to negotiate a solution to the problem. You may decide to not write *'Without Prejudice'* in your letter if you think you may want to present the letter in court as evidence.