

## 3.10 Requesting the Owner Remedy a Breach of Agreement

### OWNER OR AGENT?

**It is important to know that whilst you may be dealing directly with the real estate agent about your tenancy, it is the owner who takes on all the landlord responsibilities under the *Residential Tenancies Act*. If the agent or owner does something wrong and you have to fill out a breach notice or go to court, it is the owner you will list on the forms and notices.**

### Writing to the Owner

If you believe the owner is in breach of the agreement, you can write to the owner stating what you consider the problem to be and what you believe the owner should do. It is a good idea to refer to any specific section of the *Residential Tenancies Act* or clause in the tenancy agreement (even if the agreement was verbal) that is being broken. See chapters [1.03 The Residential Tenancies Act](#) and [2.08 The Tenancy Agreement](#) for more information.

This step is useful even if you have made repeated verbal requests, because it gives you proof that you have brought the problem to the owner's attention and tried to resolve the matter. State clearly to the owner what you want done and when you want it done by.

If you have already spoken to the owner/agent, state in the letter when you have done this and the response you received, and why the response was not good enough. This may seem like stating the obvious but it is good to have this evidence in writing if you have to take the matter further at a later date. Always keep a copy of the letter. Either post this letter, or hand it to the owner/agent when you see them. Also see chapter [3.13 Writing a Letter to the Owner/Agent](#).

### Sending a Notice of Breach of Agreement

This step is optional. Sometimes it is appropriate to send a breach notice to the owner/agent with a letter, or instead of a letter. Your letter can serve as a breach notice, but if you want to be more formal you can send the owner/agent a [Form 20A: Notice of Breach of Agreement \(by owner\)](#). This is an official notice to the owner telling them they are in breach of the tenancy agreement, what the breach is and that you require the breach to be remedied (fixed).

The form requests that the owner/agent fix the problem within 14 days, but you can reduce the time limit if the problem is urgent or put whatever amount of time you consider to be appropriate. It is a good idea to send a letter with the breach notice. This allows you to describe the problem in detail (especially if it involves a number of issues). On the breach notice ([Form 20A](#)) state briefly what the breach is and refer to the attached letter.

You can get a [Form 20A](#) from the State Law Publisher (Ph: (08) 9426 0000) and some newsagencies. The form can be viewed on the TAS website: [www.taswa.org](http://www.taswa.org) or downloaded from the Department of Commerce website: [www.commerce.wa.gov.au](http://www.commerce.wa.gov.au). There is no penalty if the owner/agent fails to comply with the notice, but the form looks official, so it's worth using and can often achieve the desired result.

## **Getting a work order from Synergy or the Local Council**

If the item that needs repairing is something that is covered by Local Council by-laws, Synergy regulations, Alinta Gas regulations, or building, health and safety laws, you can contact the relevant department and ask an inspector to come out and see the problem. Each Local Council has a health inspector or an environmental protection officer for these purposes. Synergy and Alinta Gas also have their own safety inspectors.

If the premises do not meet with relevant regulations, the inspector may put a work order on the owner to have the problem fixed, and set a date by which the repairs must be completed. If the repairs are not done within the time allowed, the Council may state that the premises are uninhabitable. This only happens in extreme circumstances and when the premises are dangerous or a fire hazard. Many councils can be reluctant to do this to a rate payer (the owner), so they will often negotiate more time when necessary.

Be aware that if the power or gas service is in a dangerous state, Synergy or Alinta Gas may disconnect the service. You should also be aware that if the premises are in a dangerous state, you may be required to vacate. You should be compensated for the costs that you may incur as a result of this. See chapter 3.12 Compensation for Loss Incurred due to a Breach by the Owner.

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

- 1.03 The Residential Tenancies Act
- 2.08 The Tenancy Agreement
- 3.12 Compensation for Loss Incurred due to a Breach by the Owner
- 3.13 Writing a Letter to the Owner/Agent