

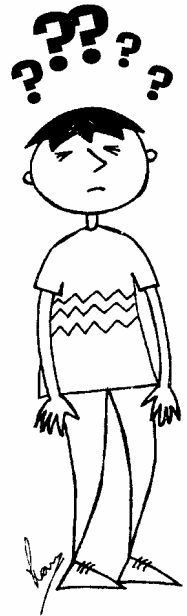
3.13 Writing a Letter to the Owner/Agent

Why should I write a letter?

Writing a letter is a useful way of keeping a record of any problems in the tenancy and any action that needs to be or has been taken. It is also an effective way to confirm any discussions with the owner/agent and avoid misunderstandings.

Writing a letter is useful because:

- It documents your position.
- You can clearly state the problem or your side of the story without getting sidetracked by arguments, other issues and emotions.
- It allows the owner/agent to consider your point of view and respond. This opens the way to negotiation.
- It provides an opportunity to clear up any misunderstandings.



What should I include in the letter?

You should include the following in your letter:

- State why you are writing and that you are seeking a solution to the problem.
- Clearly describe the problem in full; even if the owner/agent is already aware of it. If there have been previous discussions remind the owner/agent of them and state dates wherever possible. If there is more than one problem, number each issue and follow the suggestions in this sheet.
- Describe the impact the problem is having on you or your family. For example, if it is causing an inconvenience; restricting your privacy and quiet enjoyment; has created a health or safety risk; or is causing financial loss.
- Clearly state what you want the owner/agent to do. For example, “*have appropriate repairs carried out within (specify a timeframe)*”; “*give receipts for rent*”; or “*abide by our right to privacy and quiet enjoyment by giving correct notice before entering the premises*”.
- You should give the owner/agent a time limit to address the problem. This will show the importance/urgency of the matter and give you a timeframe to take the next step in resolving the problem if your first letter is not successful. For example, “*immediately stop coming to the premises without notice*”; “*remedy the problem within seven days (or less if it is urgent)*”. The timeframe (use your own judgement) should be based on the urgency of the matter and the owner/agent’s ability to fix the problem.

- Sometimes you will need documents (rent schedules, quotes, receipts, invoices, reports, etc.) from the owner/agent. You should ask for copies of these documents in your letter. If you already have documents that support your argument, enclose copies with your letter. Don't send the originals, keep them for your records.
- Invite negotiation. For example, "*I would be happy to discuss this matter with you*", or you may prefer "*Please respond in writing*". It is good to ask for a response in writing because this can be used as evidence at a later date, as well as to avoid any misunderstandings.
- If the owner/agent is prepared to talk to you but refuses to put it in writing you should follow-up any conversation with a letter to document what was discussed and any agreement made. For example, "*Further to our discussion today, I write to confirm that I have informed you of (outline your discussion) and you informed me of (state the owners/agent comments) and it was agreed that*"
- Don't forget to date the letter and keep a record or diary of the dates you have discussions with, or receive letters or documents from, the owner/agent.
- It can be a good idea to put '*Without Prejudice*' at the top of your letter so that you don't damage your existing rights or claims if the dispute needs to be settled in court.

'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.
- Your letters should show that you have been fair and reasonable. You should accept your responsibilities as a tenant and request that the owner/agent accept their responsibilities.

Remember...

- Always keep a copy of your letters to the owner/agent.
- Approaches to the owner should always be polite. If this doesn't work you may need to be more formal and insistent (see the section "When should I send a Breach Notice" below).

When should I send a Breach Notice?

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)** – see sample attached to the end of this chapter. 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). You can get a **Form 20A: Notice of Breach of Agreement (by owner)** from the State Law Publishers (Ph: (08) 9321 7688) or contact Tenants Advice Service. *A sample Form 20A has been attached to the end of this chapter.*

When completing the form, state simply and briefly what the problem is. 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.

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 state briefly what the breach is and refer to the attached letter. See chapter [3.10 Requesting that the Owner Remedy a Breach of Agreement](#) for more information.

What if the problem isn't sorted out?

If you can't resolve a problem with the owner/agent by negotiation you can take your dispute to court (s.15). If this happens, you will need to prove what happened and provide a short history of the dispute to the court. Letters to and from the owner/agent will assist the court in understanding the incidents or discussions. They can support your story and will assist your preparation for court.

Going to court doesn't cost a lot of money and usually won't involve lawyers. See chapters [6.2 Preparing for Court](#) and [6.3 Going to Court](#) for more information.



Contact Tenants Advice Service for further information.

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

[3.10 Requesting that the Owner Remedy a Breach of Agreement](#)

[6.2 Preparing for Court](#)

[6.3 Going to Court](#)

SAMPLE FORM ATTACHED:

- **Form 20A: Notice of Breach of Agreement (by Owner)**

DISCLAIMER: This is a sample letter only. You should write your own letter telling your story in your own words.

SAMPLE LETTER

Mr P Owner
15 Hill Street
West Coast

31 February 2003

**** WITHOUT PREJUDICE**

Dear Mr Owner

I am writing to you about your frequent visits to the premises without giving me notice. I do not wish to offend you but I wanted you to understand my point of view. I feel uncomfortable when you come around when I'm not expecting you, especially when I have visitors.

I am also concerned that you came yesterday when I was not home. I received the note you left on the kitchen table. But you forgot to lock the door on your way out leaving me at risk of burglary. I feel this is a serious invasion of my privacy.

I have sought advice on the problem and it was suggested that I write this letter to you. I was told that Section 44 of the Residential Tenancies Act gives me the right to privacy and quiet enjoyment of the premises without interruption from yourself.

I was also informed that under Section 46 of the Residential Tenancies Act you must give me 7 days notice in writing before you come to inspect the premises. I ask that in future you provide me with the correct notice before you come.

I was also informed that if I suffered any loss as a result of your breaching the Residential Tenancies Act I could make a claim for those losses under section 15 of the Act.

Please understand that I am very happy in this tenancy and wish to remain here on good terms with you. However, I felt it important to inform you of how I feel about this, and to ask you to follow the proper procedures in future.

Yours sincerely

Mrs J Tenant
136 Resident Street
Newtown WA 6666

**** SEE NOTE IN THIS CHAPTER ON USING THE STATEMENT 'Without Prejudice' .**

SAMPLE

**NOTICE OF BREACH OF AGREEMENT
(BY OWNER)**

SECTION 62

TO:
(Name of Owner)

OF:
(Address)

I, hereby give you NOTICE that you are in breach on the Residential Tenancy Agreement entered into with me on
.....
(date agreement was made)

I claim the breach of agreement is
.....
.....
.....

TAKE NOTICE that I require you to remedy this breach within 14 days of giving this notice.

.....
(Address of Rented Premises)

DATED: TENANT:

This notice must be given to the owner in a manner set out in Section 85 of the Residential Tenancies Act.

Notes on Section 85 (SERVICE)

If the matter goes to Court you will have to produce evidence of service. Service may be effected by various means e.g.

- (1) by personal delivery (you may seek the assistance of a bailiff or other process server).
- (2) by post.
- (3) by delivery to a person who ordinarily collects the rent.

For full particulars regarding the service of notices and documents see Section 85 of the Act.