

## **RESIDENTIAL TENANCY AGREEMENT**

RESIDENTIAL TENANCIES ACT 1987 (WA) Section 27A

### **PART A**

This agreement is made between:

#### **LESSOR:**

ADDRESS:

TELEPHONE: +                      EMAIL:

and **TENANT:**

ADDRESS:

TELEPHONE:                      EMAIL:

Giving of notices and information by electronic means:

Indicate below for each of the following persons whether the person agrees to notices and information being given by email or facsimile under the Electronic Transactions Act 2011.

Lessor - Email: Yes ~~No~~ Facsimile: ~~Yes~~ No

Tenant - Email: Yes ~~No~~ Facsimile: ~~Yes~~ No

### **RESIDENTIAL PREMISES**

The residential premises is the self-contained apartment behind the main house at Hampshire St East Victoria Park WA 6101.

### **TERM OF AGREEMENT**

This residential tenancy agreement is fixed - starting on ... and ending on .... Following this date the agreement will be on a rolling month to month basis.

### **MAXIMUM NUMBER OF OCCUPANTS**

No more than 1 person may ordinarily live at the premises at any one time.

### **RENT**

The method by which the rent must be paid is by bank transfer to Lessor's account:

Account holder:

Bank: ...

Account No. ...

### **WATER SERVICES**

Scheme water is connected to the premises and the tenant is required to pay 0% of water costs.

**ELECTRICITY and GAS** - The tenant is required to pay 0% of electricity and gas costs.

**STRATA BY-LAWS** are not applicable to the residential premises.

**PETS:** No pets may be kept at the premises at any time.

### **RIGHT OF TENANT TO ASSIGN OR SUB-LET**

The tenant may not assign the tenant's interest under this agreement or sub-let the premises.

### **RIGHT OF TENANT TO AFFIX AND REMOVE FIXTURES**

The tenant may only affix any fixture or make any renovation, alteration or addition to the premises with the lessor's written permission.

### **PROPERTY CONDITION REPORTS**

These will be conducted Quarterly by the Lessor's representative.

## **PART B**

### **STANDARD TERMS APPLICABLE TO ALL RESIDENTIAL TENANCY AGREEMENTS**

The Residential Tenancies Act 1987 and the Residential Tenancies Regulations 1989 apply to this agreement. Both the lessor and the tenant must comply with these laws. Some of the rights and obligations in that legislation are outlined below.

### **RIGHT TO OCCUPY THE PREMISES**

1. The tenant has the right to exclusive occupation and quiet enjoyment of the residential premises during the tenancy. The residential premises include the additional items but do not include the exclusions noted under "RESIDENTIAL PREMISES" in Part A.

### **COPY OF AGREEMENT**

2. The lessor or the property manager must give the tenant: 2.1 a copy of this agreement when this agreement is signed by the tenant; and 2.2 a copy of this agreement signed by both the lessor or the property manager and the tenant within 14 days after it has been signed and delivered by the tenant.

## **RENT**

3. The tenant must pay rent on time or the lessor may issue a notice of termination and, if the rent is still not paid in full, the lessor may take action through the court to evict the tenant.
4. The tenant must not withhold rent because the tenant is of the view that the lessor is in breach of the agreement.
5. The lessor or property manager must not:
  - 5.1 require the tenant to pay rent by post-dated cheque; or
  - 5.2 use rent paid by the tenant for the purpose of any amount payable by the tenant other than rent; or
  - 5.3 require the tenant to pay any monetary amount other than rent, security bond and pet bond.
6. The lessor or property manager must give a rent receipt to the tenant within 3 days of the rent being paid unless the rent is paid into an authorised bank or credit union account nominated by the lessor.
7. A tenancy agreement cannot contain a provision for a penalty, damages or extra payment if the tenant fails to keep to the agreement or breaches any law. If an agreement allows a reduced rent or a rebate, refund or other benefit if the tenant does not breach the agreement, the tenant is entitled to the reduction, rebate, refund or other benefit in any event.
8. Warning: it is an offence for a tenant to fail or refuse to pay any rent due under a residential tenancy agreement with the intention that the amount of such rent be recovered by the lessor from the tenant's security bond.

## **PAYMENT OF COUNCIL RATES, LAND TAX, WATER AND OTHER CHARGES**

9. The lessor must pay all rates, taxes or charges imposed in respect of the premises under the Local Government Act 1995, the Land Tax Act 2002 or any written law under which a rate, tax or charge is imposed for water supply or sewerage services under the Water Agencies (Powers) Act 1984 (other than a charge for water consumed). The lessor is responsible for any contribution levied under the Strata Titles Act 1985 and any contribution levied on a proprietor under the Strata Titles Act 1985.

## **PUBLIC UTILITY SERVICES**

10. Public utility services have the meaning given in the Land Administration Act 1997 and refers to services such as gas, electricity and water.
11. If the premises are not separately metered to measure the tenant's consumption of a public utility service at the premises and the tenant is expected to pay for his or her consumption of the public utility service, the lessor and tenant must agree in writing an alternative method of calculating the charge to be paid by the tenant for the consumption of that public utility service.

12. The tenant must not be required to pay a charge in relation to a public utility service provided to the premises unless the charge is calculated by reference to the tenant's actual consumption of the public utility service at the premises and the tenant is given written notice of the charge.

13. If the premises are separately metered, the notice of the charge must specify:

13.1 the relevant meter reading or readings; and

13.2 the charge per metered unit; and

13.3 the amount of GST payable in respect of the provision of the public utility service to the residential premises.

14. If the premises are not separately metered, the notice of the charge must specify:

14.1 the calculation as per the agreed method; and

14.2 the amount of GST payable in respect of the provision of the public utility service to the residential premises.

#### **POSSESSION OF THE PREMISES**

15. The lessor must:

15.1 give the tenant vacant possession of the premises on the day on which the tenant is entitled to enter into occupation of the premises under the agreement; and

15.2 take all reasonable steps to ensure that, at the time of signing this agreement, there is no legal reason why the tenant cannot occupy the premises as a residence for the term of this agreement.

#### **TENANT'S RIGHT TO QUIET ENJOYMENT**

16. The tenant is entitled to quiet enjoyment of the premises without interruption by the lessor or any person claiming by, through or under the lessor or having superior title to that of the lessor.

17. The lessor or the property manager will not interfere with, or cause or permit any interference with, the reasonable peace, comfort or privacy of the tenant in the use of the premises. The lessor or the property manager must also take all reasonable steps to ensure that the lessor's other neighbouring tenants do not interfere with the reasonable peace, comfort or privacy of the tenant in the use of the premises.

#### **USE OF THE PREMISES BY TENANT**

18. The tenant must:

18.1 use the premises as a place of residence; and

18.2 not use or allow the premises to be used for any illegal purpose; and

18.3 not cause or permit a nuisance; and

18.4 not intentionally or negligently cause or permit damage to the residential premises; and

18.5 advise the lessor or property manager as soon as practicable if any damage occurs; and

18.6 keep the premises in a reasonable state of cleanliness; and

18.7 not cause or allow to be caused injury to the lessor, property manager or any person lawfully on adjacent premises; and

18.8 not allow anyone who is lawfully at the premises to breach the terms of this agreement.

19. The tenant is responsible for the conduct or omission of any person lawfully on the premises that results in a breach of the agreement.

#### **LESSOR'S GENERAL OBLIGATIONS FOR RESIDENTIAL PREMISES**

20. In this clause, premises includes fixtures and chattels provided with the premises but does not include:

20.1 any fixture or chattel disclosed by the lessor to the tenant as not functioning before the agreement was entered into; or

20.2 any other fixture or chattel that the tenant could not reasonably have expected to be functioning at the time the agreement was entered into.

21. The lessor must:

21.1 provide vacant possession of the premises and in a reasonable state of cleanliness and repair; and

21.2 maintain and repair the premises in a timely manner; and

21.3 comply with all laws affecting the premises including building, health and safety laws.

#### **URGENT REPAIRS**

22. Urgent repairs are defined by the Residential Tenancies Act 1987 and fall into 2 categories: repairs that are necessary for the supply or restoration of an essential service and other urgent repairs. Essential services are listed in the Residential Tenancies Regulations 1989 as electricity, gas, a functioning refrigerator (if one is provided with the premises), waste water management treatment and water (including the supply of hot water). Arrangements for repairs that are necessary to supply or restore an essential service must be made with a suitable repairer within 24 hours. Other urgent repairs are those that are not an essential service, but may nevertheless cause damage to the premises, injure a person or cause undue hardship or inconvenience to the tenant. Arrangements for these repairs must be made within 48 hours.

23. In every tenancy, if the need for urgent repair arises other than as a result of a breach of the agreement by the tenant:

23.1 the tenant is to notify the lessor or the property manager of the need for urgent repairs as soon as practicable; and

23.2 the lessor is to ensure that the repairs are carried out by a suitable repairer as soon as practicable after that notification; and

23.3 if, within 24 hours (in the case of repairs for the supply or restoration of essential services) or 48 hours (in the case of other urgent repairs), the lessor or property manager cannot be contacted, or, having notified the lessor or property manager of the need for the repairs, the lessor fails to ensure that the repairs will be carried out by a suitable repairer as soon as practicable after that notification, the tenant may arrange for the repairs to be carried out by a suitable repairer to the minimum extent necessary to effect those repairs; and

23.4 if a tenant arranges for repairs to be carried out under clause 23.3, the lessor must, as soon as practicable after the repairs are carried out, reimburse the tenant for any reasonable expense incurred by the tenant in arranging for those repairs to be carried out and paying for those repairs.

#### **LESSOR'S ACCESS TO THE PREMISES**

24. The lessor, property manager or person acting on behalf of the lessor, can only enter the premises in the following circumstances:

24.1 in any case of emergency;

24.2 to conduct up to 4 routine inspections in a 12 month period after giving the tenant at least 7 days, but not more than 14 days', written notice;

24.3 where the agreement allows the rent to be collected at the premises where rent is payable not more frequently than once every week;

24.4 to inspect and secure the premises if there are reasonable grounds to believe that the premises have been abandoned and the tenant has not responded to a notice from the lessor;

24.5 carrying out or inspecting necessary repairs to or maintenance of the premises, at any reasonable time, after giving the tenant not less than 72 hours' notice in writing before the proposed entry;

24.6 showing the premises to prospective tenants, at any reasonable time and on a reasonable number of occasions during the period of 21 days preceding the termination of the agreement, after giving the tenant reasonable notice in writing;

24.7 showing the premises to prospective purchasers, at any reasonable time and on a reasonable number of occasions, after giving the tenant reasonable notice in writing;

24.8 if the tenant agrees at, or immediately before, the time of entry.

25. There are directions within the Residential Tenancies Act 1987 which guide tenants, lessors and property managers on appropriate behaviour in relation to gaining or granting access to the premises. The following summary may assist.

#### **REASONABLE TIME**

26. Reasonable time means:

26.1 between 8.00 am and 6.00 pm on a weekday; or

26.2 between 9.00 am and 5.00 pm on a Saturday; or

26.3 at any other time agreed between the lessor and each tenant.

#### **REQUIREMENT TO NEGOTIATE A DAY AND TIME FOR A PROPOSED ENTRY BY THE LESSOR**

27. If it would unduly inconvenience the tenant for the lessor or property manager to enter the premises as specified in a notice of an intention to enter premises on a particular day, the lessor or property manager must make a reasonable attempt to negotiate a day and time that does not unduly inconvenience the tenant.

#### **REQUIREMENT TO GIVE TENANT NOTICE OF PROPOSED ENTRY**

28. Where the lessor or property manager gives a tenant notice of an intention to enter premises on a particular day, the notice must specify the day and whether it will be before or after 12.00 pm.

#### **TENANT ENTITLED TO BE PRESENT**

29. The tenant is entitled to be on the premises during the entry by the lessor, the property manager or any other person acting on behalf of the lessor.

#### **ENTRY MUST BE REASONABLE AND NO LONGER THAN NECESSARY**

30. The lessor or property manager exercising a right of entry:

30.1 must do so in a reasonable manner; and

30.2 must not, without the tenant's consent, stay or permit others to stay on the premises longer than is necessary to achieve the purpose of the entry.

#### **LESSOR'S OBLIGATION TO COMPENSATE TENANT IF DAMAGE TO TENANT'S GOODS**

31. If the lessor or property manager (or any person accompanying the lessor or property manager) causes damage to the tenant's goods when exercising a right of entry, the lessor is obliged to compensate the tenant.

#### **ALTERATIONS AND ADDITIONS TO THE PREMISES**

32. If the tenancy agreement allows the tenant to affix a fixture or make a renovation, alteration or addition to the premises, then:

32.1 the tenant must obtain permission from the lessor prior to affixing any fixture or making any renovation, alteration or addition to the premises; and

32.2 the tenant must obtain permission from the lessor to remove any fixture attached by the tenant and make good any damage; and

32.3 notify the lessor of any damage caused by removing any fixture and, at the option of the lessor, repair the damage or compensate the lessor for any reasonable expenses incurred by the lessor in repairing the damage; and

32.4 the lessor must not unreasonably refuse permission for the installation of a fixture or an alteration, addition or renovation by the tenant.

33. If the lessor wants to make an alteration or addition or affix a fixture to the premises, then:

33.1 the lessor must obtain the tenant's permission prior to affixing any fixture or making any renovation, alteration or addition to the premises; and

33.2 the tenant must not unreasonably refuse permission for the lessor to affix any fixture or make any renovation, alteration or addition to the premises.

#### **LOCKS AND SECURITY DEVICES**

34. The prescribed means of securing the premises are specified in the Residential Tenancies Regulations 1989. In every tenancy:

34.1 the lessor must provide and maintain such means to ensure the premises are reasonably secure as prescribed in the regulations; and

34.2 any lock or security device at the premises must not be altered, removed or added by a lessor or tenant without the consent of the other; and

34.3 the lessor or the tenant must not unreasonably withhold that consent.

#### **~~TRANSFER OF TENANCY OR SUB-LETTING BY TENANT~~**

~~35. If the tenancy agreement allows the tenant to assign his or her interest or sub-let the premises with the lessor's consent:~~

~~35.1 the tenant cannot assign his or her interest or sub-let the premises without the written consent of the lessor; and~~

~~35.2 the lessor must not unreasonably withhold such consent; and~~

~~35.3 the lessor must not make any charge for giving such consent other than the lessor's reasonable incidental expenses.~~

#### **CONTRACTING OUT**

36. It is an offence to contract out of any provision of the Residential Tenancies Act 1987.

#### **ENDING THE RESIDENTIAL TENANCY AGREEMENT**

37. This residential tenancy agreement can only be terminated in certain circumstances.

38. The tenant agrees, when this agreement ends, to give vacant possession of the premises to the lessor. Before giving vacant possession to the lessor the tenant must:

38.1 remove all the tenant's goods from the residential premises; and



38.2 leave the residential premises as closely as possible in the same condition, fair wear and tear excepted, as at the commencement of the tenancy; and

38.3 return to the lessor all keys, and other opening devices or similar devices, provided by the lessor.

39. The tenant may be liable for losses incurred by the lessor if the above requirements are not met.

#### **ENDING A FIXED-TERM AGREEMENT**

40. If this agreement is a fixed-term agreement it may be ended:

40.1 by agreement in writing between the lessor and the tenant; or

40.2 if either the lessor or tenant does not want to renew the agreement, by giving written notice of termination. The notice must be given to the other party at least 30 days prior to the date on which vacant possession of the premises is to be delivered to the lessor. The notice may be given at any time up until the end of the fixed term but cannot take effect until the term ends.

#### **ENDING A PERIODIC AGREEMENT**

~~41. If this agreement is a periodic agreement it may be ended:~~

~~41.1 by agreement in writing between the lessor and the tenant; or~~

~~41.2 by either the lessor or the tenant by giving written notice of termination to the other party. The notice may be given at any time. The lessor must give at least 60 days' notice and the tenant must give at least 21 days' notice.~~

#### **OTHER GROUNDS FOR ENDING AGREEMENT**

42. The Residential Tenancies Act 1987 also authorises the lessor and tenant to end this agreement on other grounds. The grounds for the lessor include sale of the residential premises, breach of this agreement by the tenant, where the agreement is frustrated (e.g. where the premises are destroyed or become uninhabitable) and hardship. The grounds for the tenant include breach of this agreement by the lessor, where the agreement is frustrated (e.g. where the premises are destroyed or become uninhabitable) and hardship.

43. For more information, refer to the Residential Tenancies Act 1987 or contact the Department of Mines, Industry Regulation and Safety on 1300 30 40 54 or visit [www.commerce.wa.gov.au/ConsumerProtection](http://www.commerce.wa.gov.au/ConsumerProtection).

44. Warning:

44.1 It is an offence for any person to obtain possession of the residential premises without an order of the Magistrates Court if the tenant does not willingly move out (a termination notice issued by the lessor or property manager is not a court order). The court may order fines and compensation to be paid for such an offence.

44.2 It is an offence for a tenant to fail to provide the lessor with a forwarding address when vacating the premises.

## **SECURITY BOND**

45. The security bond is held by the Bond Administrator.

46. The lessor agrees that if the lessor or the property manager applies to the Bond Administrator for all or part of the security bond to be released to the lessor, the lessor or property manager will provide the tenant with evidence to support the amount that the lessor is claiming.

47. The Bond Administrator can only release the security bond when it receives either:

47.1 a Joint Application for Disposal of Security Bond form signed by all the parties to the tenancy agreement; or

47.2 an order of the court.

48. If the parties cannot agree on how the security bond is to be dispersed, either party can apply to the Magistrates Court to have the dispute decided.

49. Warning: It is an offence for a lessor or a property manager to require a tenant to sign a Joint Application for Disposal of Security Bond form unless the residential tenancy agreement has terminated, the rent to be paid under the tenancy agreement is decreased or a pet is no longer kept at the premises, and the amount of the security bond to be paid to the tenant or lessor is stipulated on the form.

## **TENANCY DATABASES**

50. A lessor or property manager can only list a person on a residential tenancy database if:

50.1 the person is a named tenant on the residential tenancy agreement; and

50.2 the residential tenancy agreement has been terminated; and

50.3 the person owes the lessor a debt that is greater than the security bond or a court has made an order terminating the tenancy agreement.

## **NOTICES**

51A. A notice under this agreement must be given:

51A.1 in the prescribed form; or

51A.2 if there is no prescribed form but there is an approved form — in the approved form; or

51A.3 if there is no prescribed form or approved form — in writing.

51B. A notice from the tenant to the lessor may be given to the property manager or the lessor's agent.

51C. A notice under this agreement may be given to a person:

51C.1 by giving it to the person directly; or

51C.2 if an address for service for the person is given in the agreement — by posting it to the address

for service; or

51C.3 if the person has agreed under Part A to the electronic service of notices — by sending the notice to the email address or facsimile number given in Part A.

51D. A person may withdraw his or her consent to a notice being given to the person by email or facsimile by giving a notice to that effect to each other party to the agreement.

## **ADVICE, COMPLAINTS AND DISPUTES DEPARTMENT OF MINES, INDUSTRY REGULATION AND SAFETY**

52. The Residential Tenancies Act 1987 allows the Commissioner for Consumer Protection to give advice to parties to a residential tenancy agreement, to look into complaints and, wherever possible, help to settle them. The Department of Mines, Industry Regulation and Safety may be contacted by telephone on 1300 30 40 54 or by visiting one of the Department's offices.

53. The tenant should generally approach the lessor or property manager to solve any problem before approaching the Department of Mines, Industry Regulation and Safety. The Department's role is one of mediation and conciliation, it cannot issue orders or make determinations in respect of disputes.

### **IF A DISPUTE CANNOT BE RESOLVED**

54. If a dispute arises between the lessor and the tenant and the dispute cannot be resolved, either party may apply to the Magistrates Court to have the dispute decided by the court. The court can make a range of orders, including:

54.1 restraining any action in breach of the agreement; and

54.2 requiring a party to the agreement to perform a certain action under the agreement; and

54.3 order the payment of any amount owing under the agreement; and

54.4 order the payment of compensation for loss or injury.

## **PART C**

### **ADDITIONAL TERMS ARE NOT REQUIRED BY THE RESIDENTIAL TENANCIES ACT 1987.**

#### **IMPORTANT INFORMATION**

Additional terms may be included in this agreement if:

- (a) both the lessor and tenant agree to the terms; and
- (b) they do not conflict with the *Residential Tenancies Act 1987*, the *Residential Tenancies Regulations 1989*, or any other law; and
- (c) they do not breach the provisions about unfair contract terms in the *Fair Trading Act 2010*; and
- (d) they do not conflict with the standard terms of this agreement.

HOWEVER, ONCE THE PARTIES SIGN THIS AGREEMENT, THE ADDITIONAL TERMS ARE BINDING UPON THE PARTIES UNLESS THE TERM IS FOUND TO BE UNLAWFUL.

**ADDITIONAL TERMS:**

Tenant to ensure shared laundry is kept clean and tidy after each use by the Tenant.

Tenant to maintain patio decking area outside apartment (sweeping implements provided).

**THE LESSOR AND TENANT ENTER INTO THIS AGREEMENT AND AGREE TO ALL ITS TERMS.**

Signed by the **LESSOR** \_\_\_\_\_ [Signature of lessor]

\_\_\_\_\_/\_\_\_\_\_/\_\_\_\_\_ Date

Signed by the **TENANT** \_\_\_\_\_ [Signature of tenant]

\_\_\_\_\_/\_\_\_\_\_/\_\_\_\_\_ Date