

Removal of the no-cause 90-day termination not working

Within the last few months we have seen and heard of multiple cases, for example in Greymouth, Christchurch and Auckland, where tenants have had anti-social incidents that have resulted in either full-time security guards being placed outside houses or trespass notices being given to tenants to prevent them from disturbing their neighbours in Kainga Ora houses.

“This situation will only continue to escalate unless the Residential Tenancies Act change regarding no-cause terminations, which was implemented early February, is reversed,” said Sharon Cullwick, Executive Officer of the NZ Property Investors’ Federation (NZPIF).

Kainga Ora has had a policy of not removing tenants from properties but instead working with the individuals to help them in their situation by providing wrap-around services. This decision is resulting in hundreds of thousands of taxpayer dollars being spent on security for tenants and extra police time to manage these incidents.

The 90 day-no-cause termination was removed from the Residential Tenancies Act 2020. This type of termination is only ever used by landlords as a last resort. After all, the landlord still has to pay the mortgage and has to find the full amount of these payments if a house is left empty. These notices were only given to a small number of tenants. It was ultimately a safeguard for landlords enabling them to remove tenants who had become disruptive to neighbours. This ability has been extremely useful in stopping unruly behaviour in residential blocks and apartment buildings.

Now the landlord must provide evidence of anti-social or disruptive behaviour on 3 separate occasions within 90 days before they can apply to the Tenancy Tribunal to have the tenants removed. However, a ruling from the Tenancy Tribunal in favour of the landlord will not guarantee that the tenant will move out of the property immediately. In addition, this method of evidence gathering will put the neighbours in a precarious position when they are required to present evidence at the Tenancy Tribunal. The disruptive tenants will know which of their neighbours has been responsible for them having to move from their rental property.

This new law will give security of tenure to the small number of anti-social tenants while it will disadvantage good tenants who will look for alternative properties to rent. Ultimately, it will be these good tenants who will be inclined to keep moving house as the unruly and disruptive tenants cannot easily be removed and will continue to cause trouble to their neighbours. It is possible that more areas will turn into slums as good tenants move out, leaving behind unruly and anti-social tenants.

Sharon Cullwick
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