

## FAQs for landlords

### What does the Family Violence clause of the Residential Tenancies Act entail?

#### 1) When does the new tenancy legislation come into effect?

Most tenancy reforms will come into effect from the 11<sup>th</sup> of February 2021, but the legislation allowing a person to withdraw from a tenancy due to family violence does not come into effect until 11<sup>th</sup> August 2021.

#### 2) Can a person withdraw from their tenancy when they are using violence?

The Act currently limits usage to “victims of family violence.” However, we highly encourage you to accept a person’s withdrawal even if they are the one using violence. The person experiencing that violence will still be made safer even if the person using the violence appears to be getting the benefit.

In fact, Aviva recommends that where possible the violence be removed rather than the person experiencing it, as this is typically a far more equitable and long-term solution.

#### 3) Can and should I ask my tenant for proof of family violence?

As the landlord, you have the right to ask your tenant for evidence of family violence. However, we urge you to show empathy and consideration to your tenant’s experience and question whether you truly need evidence in this situation.

Admitting you are experiencing or using violence is a highly difficult process. Our clients often feel shame, guilt, or confusion, and may be uncomfortable discussing their situation with friends or family, let alone a landlord. Violence is often hidden and unseen even to those closest to the person experiencing it, so it may be shocking to hear someone you never expected is going through it. However, by asking that person for evidence, you may unintentionally imply that you do not believe them, which could prevent them from following through with their request or from coming forward in the future.

We also urge you to remember that those living with violence are often living under another person’s strict control and may not have evidence to give. Furthermore, violent behaviors often escalate when a person decides to leave. Asking your tenant to collect evidence could put them at further risk if the person using violence against them finds it.

#### 4) What kind of evidence can I ask for?

We strongly urge against asking for evidence, please see our answer to question 3. However, if you feel you need to ask for evidence, we suggest that you do not give any criteria for what qualifies and that you accept your tenant’s evidence as it is presented. There are a lot of preconceived notions within our society as to what constitutes violence. The evidence presented to you may seem innocuous or may not match your expectation of what violence is but could speak to a wider pattern that is hard to recognise without the proper training. We recommend reading more about what family and sexual violence is on our website [here](#). Please note, that Aviva’ defines violence as not just physical, but also emotional, financial, and sexual abuse among a wide array of other behaviours. These can include intimidation, isolation, and gaslighting. This definition is in line with the New Zealand government’s definition of violence. Evidence of any of these behaviours or forms of violence should be accepted.

#### **5) Can I share information on the withdrawal with others?**

No, if your tenant is withdrawing from their tenancy due to family violence, it is illegal to disclose any part of their withdrawal or any qualifying evidence unless:

- a. You are given consent to do so by the tenant
- b. It is for the purpose of seeking legal advice
- c. It is in connection with any legal proceedings to settle a dispute between you and the tenant or guarantor in relation to the tenancy
- d. You are required to share the information by rule of law

#### **6) Can my tenant withdraw even if the violence did not happen at my property or the violent party is not living with them?**

Yes, the violence simply needs to occur while the person has been a tenant of your premises. Examples of situations where this may be necessary include stalking situations or if your tenant has received threats of violence by someone who knows where they live.

#### **7) Am I able to collect the remainder of the rent from the remaining tenants at my property?**

Any remaining tenants after a withdrawal due to family violence are eligible for a reduction in rent for two weeks. This reduction is proportional to the number of tenants who have left for family violence. For example, if you have four tenants and one has left due to family violence, the remaining tenants should have  $\frac{1}{4}$  of their total rent deducted. The remaining tenants may also be eligible to withdraw from the tenancy themselves if they are no longer able to make rent payments without the prior tenant.

#### **8) Can I ask a potential tenant about their history of family violence as part of the application?**

No, this is a gross invasion of privacy and could be considered illegal. As the landlord, you are only allowed to collect personal information for a lawful purpose that is connected with your activities or functions. While a tenant's name, contact information, and credit history are necessary for arranging a tenancy of a rental property, their family violence history is not and is protected.

#### **9) What can I do to support my tenant?**

If you believe someone is in immediate danger, please call 111.

If your tenant is coming to you about withdrawing from their tenancy and is planning to leave a violent situation, this could be a very high-risk time for them. You can encourage them to contact a support service like Aviva to help them create a safety plan and provide further advice and advocacy. We also offer support to those using violence. You can contact Aviva on our 24/7 hotline at 0800 AVIVA NOW (0800 28482 669)

Although there are privacy requirements around sharing information on your tenant's withdrawal, you are still able to contact Aviva yourself for advice on how to better support tenants in general or for advice in dealing with a violent tenant.

#### **10) Where can I go to learn more about family violence?**

We recommend checking out our [website](#) or following us on [Facebook](#) or [Linkedin](#) (@AvivaNZ). Our 24/7 support line is also available to help answer your questions and offer support to you and your tenant at 0800 AVIVA NOW (0800 28482 669).