

Succession of Tenancy

Policy

- This Policy relates to both Community and Affordable Housing.

Coast2Bay understands the stress and uncertainty a death of a spouse, partner, or co-tenant can inflict on remaining tenants, family and their housing. The Policy *Succession of Tenancy* has been developed to support co-tenants and family members of the deceased or absent to maintain, or if necessary finalise the tenancy.

Succession of Tenancy is required when

- A legal tenant has died, and
- An existing household member wishes to become a legal tenant, or
- When a legal tenant leaves the household through marriage, separation, hospitalisation, or institution.

Death of a Sole Tenant.

The Residential Tenancies Authority stipulates when a sole tenant dies the tenancy ends two (2) weeks after any person involved gives notice of the death. Alternatively the deceased person's estate and Coast2Bay can mutually agree on an end date for the tenancy, or if application is made to the Queensland Civil and Administrative Tribunal, the tribunal can set a date. If no notice is given and no application is made to the tribunal the tenancy ends one (1) month after the tenant's death. In a co-tenancy when a tenant dies their interest in the tenancy ends.

If a sole tenant dies, Coast2Bay will work with the personal representative of the deceased's such as an Enduring Power of Attorney, or another family or friend formally recognised as the person who is to act on behalf of the deceased estate. To confirm this Coast2Bay will require the following documents:

- Certified Death Certificate
- Statutory declaration signed by the legal representative

For purposes of bond and rent management, the Residential Tenancies Authority also requires a copy of the death certificate and RTA approved Statutory Declaration Oaths *Act 1987*.

In order to refund rent credits and/or bond refund to deceased tenant estates, Coast2Bay Finance Department requires a signed written request from the Beneficiary or Executor of the estate. Coast2Bay expects that the Enduring Power of Attorney or other recognised person to act on the tenants behalf will arrange for cancellation of all rent and other property related payments, and be responsible for the removal of all tenants belongings prior to the property being returned to Coast2Bay in an approved state that is in accordance with the original Entry Condition Report. It is at the discretion of Coast2Bay and surviving family members in what time frame the property is to be returned, but it should be inline with the process options detailed above.

If the deceased tenant has no family or significant others to act on their behalf, Coast2Bay will seek advice and intervention through The Public Trustee Queensland.

Succession of Tenancy

1.1 Death of a tenant in a co-tenancy

Definition of a co-tenancy: all occupants of the home are named on the agreement as tenants
(resource: Residential Tenancies Authority)

Where the remaining tenant has signed the most recent General Tenancy Agreement, succession of tenancy is automatically approved, however Coast2Bay cannot guarantee the Community Housing tenancy will continue in the existing dwelling. Assessment of the remaining household members needs will be undertaken in accordance with Department Assessment and Allocation Policy. Remaining occupants may also be required to undertake a Tenancy Pathway Plan to assist Coast2Bay to understand and meet their housing needs. If succession is granted in an NRAS property the tenants continuing eligibility will be checked annually.

When a tenant dies and the remaining occupant is not a co-tenant but has been formally approved by Coast2Bay as an approved occupant, consideration will be given to granting approval for succession of tenancy. This decision is centred in accordance with The Department of Housing and Public Works (DoHPW) Eligibility Criteria, Residential Tenancies and Rooming Accommodation Act 2008, and NRAS Eligibility Criteria if applicable.

If the remaining occupant has not been formally approved by Coast2Bay as an approved occupant, Coast2Bay will assess each individual case to determine if succession will be considered. In order for a succession of tenancy to be considered, the remaining occupant must apply to Coast2Bay within 28 days of the death or departure of the tenant, failure to do so may result in termination of the tenancy. Request for succession of tenancy will generally not be considered for persons that have been evicted from a Coast2Bay property resulting in an existing debt they are failing to address, or if they have caused malicious damage and or displayed anti-social behaviours. Coast2Bay will also take into account the remaining tenants capabilities to managing an independent tenancy.

The approved occupant must be willing to sign a new General Tenancy Agreement and undertake a rent review in accordance with Community Housing Rent Policy where applicable. Rent will be reassessed on the remaining approved household members assessable income, and the rent charge will take affect from the date Coast2Bay were formally notified (supplied evidence) of the tenants death.

If an NRAS approved occupant, rent will be charged as per NRAS Guidelines.

In the event of any shared bond arrangements between the deceased and remaining approved co-tenants, Coast2Bay will adopt process in accordance with the Residential Tenancies Authority.

In the event an application for succession is not approved Coast2Bay acknowledges the remaining occupant may exercise their rights under the Residential Tenancies and Accommodation Rooming Act 2008, and Coast2Bay complaints and appeals process to dispute this decision.

Legal Guardians.

Coast2Bay may consider granting succession to a person outside of the tenancy if the applicant has been formally granted custody/guardianship of any remaining children in that tenancy, and no alternative safe and secure housing is available to the children, or it would be detrimental to the children to be removed from the property.