

Rent payments

Landlords and tenants must agree about rental payments when deciding to enter into a residential tenancy agreement. If a tenancy agreement is in writing, it must include information about how and when to pay the rent, as well as the rental amount. Normally, rent is paid on a fortnightly basis, however, some tenants and landlords prefer weekly, 4 weekly or calendar monthly rental payments. Although, generally, the legislation allows for the tenant and landlord to arrange the way the rent is to be paid between themselves, there are some legal requirements that parties should be aware of.

How much rent can a landlord ask for?

At the commencement of a residential tenancy agreement the landlord cannot ask a tenant to pay more than the first 2 weeks rent, even if the lease agreement states that the rent is to be paid every 4 weeks or calendar monthly. After the first 2 weeks has passed, the rent can then be paid as stated in the agreement i.e. weekly, fortnightly, 4 weekly or calendar monthly.

How do I calculate the amount due if the rent is to be paid calendar monthly?

If the rent is to be paid calendar monthly, it is important to ensure that the amount due is calculated

Weekly rent divided by 7, multiplied by 365 (or 366 in a leap year), divided by 12.

correctly. To calculate calendar monthly rent for a 12 month lease, use the following formula:

For example a weekly rent of \$340 would become a calendar monthly payment of \$1477.38.

$340/7 \times 365 = 17728.57$ (annual rent). Divide this by 12 to get the monthly payment - \$1477.38.

What about rent in advance?

A general misconception is that the 2 week's rent "in advance" paid at the beginning of the tenancy can be held by the landlord and used for the last two week's rent of the lease. Both landlords and tenants can be confused by the term "in advance". It is not actually rent in advance but rather, **the first 2 week's rent**. A tenant who pays their rent fortnightly, would pay two weeks rent and once this is used up, the next 2 weeks rent is due.

When does a receipt have to be provided?

A person who receives rent under a residential tenancy agreement must give the person paying the rent a receipt which includes the following:

- the date rent was received
- the name of the person paying the rent
- the amount paid
- the rental period for which it pays
- the address of the premises.

If the rent is paid by cash, money order or cheque, then a receipt must be provided on each occasion within 48 hours of receiving the money. However, if the rent is paid directly into an account kept by the landlord or agent, a receipt need not be given. The landlord must keep a proper rent record containing all of the information required on a receipt. If a tenant makes a written request for a copy of this record, the

landlord must provide it to the tenant within 7 days. **Please note:** *Bank account statements are not proper rent records.*

Who pays the charges associated with rent payments?

For those landlords/agents requiring the rent to be paid via a rent card or a deposit book, any cost for the card, deposit book or any account keeping or transaction fee must be borne by the landlord or agent; whoever holds the account.

Under Section 53 of the *Residential Tenancies Act 1995*, a landlord can only ask for certain payments from the tenant. This includes rent and bond, and other charges specified by regulation. If the landlord asks for payments that are not allowed, there is a maximum penalty of \$2,500. In addition to being fined, offenders may also be required to repay the amount wrongly charged to the tenant.

What if the tenant loses a rent card or deposit book?

If a tenant loses a rent card or deposit book they can certainly be asked to pay for the replacement cost. However, they cannot be charged a fee for a lost card or deposit book where no fee is incurred by the landlord/agent.

Method of payment of rent

A landlord must offer the tenant at least one way of paying the rent that doesn't involve the payment of cash or the use of a rent collection agency which charges the tenant a fee. Rent collection agencies provide an electronic rent payment service and require the tenant to enter into an agreement which is separate from the residential tenancy agreement.

If the tenant pays rent electronically, the rent will not be considered to have been paid until it is credited to the landlord's account. It may be necessary to allow extra time for the transfer to be completed, otherwise the rent payment may be late.

Changing the way rent is paid during the tenancy.

The method of paying the rent may be changed during the tenancy if the landlord and tenant agree on the change. Otherwise, the tenant must pay in the manner specified in the original agreement.

Landlords/agents can change their nominated address or bank account at any time, provided they notify the tenant.

What about other charges?

Under Section 53 the landlord can pass on charges for water supply and use. The landlord must bear the cost of all other statutory rates, taxes and levies. This includes any government fee charged to a landowner such as land tax, emergency services levy, River Murray levy etc Regulations also allow the landlord to recover costs for providing electricity, gas, telephone, internet or pay TV services where the account is in the name of the landlord. The landlord should provide copies of accounts when asking the tenant for reimbursement of these costs.

Occasionally, we hear about landlords/agents who charge a separate bond or rent because the tenant has a pet on the property. These extra charges are not allowed.

There are many costs associated with the running of a rental property. Many landlords/agents only think about the interest on the mortgage, but charges such as council rates, other government charges and insurance can significantly increase the ongoing cost of running the rental property, not to mention ongoing maintenance and repairs. When setting the rent it is important for a landlord/agent to take into account all of the running costs of the property.