

7. Boarders and lodgers

Boarding or lodging is when you pay for a room or room and meals, but you are not renting the entire premises. It can include arrangements where the owner lives on the property and is renting out rooms; situations where you sub-let a room in a house; and living in lodging houses.

Boarders and lodgers are not covered by the *Residential Tenancies Act 1987*, but they still have rights and responsibilities. These rights and responsibilities should be set out in the boarding or lodging agreement that is signed by both parties.

If a lodging house has six or more rooms that are being rented out, it has to be registered with the local authority.

Information provided here is written from the perspective of you as a boarder or lodger. However, it is equally relevant if you wish to take in a boarder or lodger. You may decide to take in a boarder or lodger as a way of helping to pay bills or having company.

Am I a boarder or lodger?

If you have been given permission to stay at another person's house, and have your meals provided and pay rent, you are most likely a boarder.

If you have been given permission to stay at another person's house and pay rent but are not supplied with meals, you are most likely a lodger.

A owner is the person who provides the room(s) and gives permission to the boarder or lodger to live there.

If you are a boarder or lodger, your owner keeps control and authority over the house, even your room, and may enter any part of the house without necessarily giving you notice.

How is a tenant different from a boarder or lodger?

There are two main differences between a tenant and a boarder or lodger. A tenant has:

- a right to 'exclusive possession' of the place in which he or she is staying; and
- a 'term of tenancy', which means a specified length of time he or she is given permission to stay in the house.

'Exclusive possession' means the right to stop anyone, including the owner, from entering the premises, or room you are renting.

A tenant generally has a higher level of protection under the law because he or she is covered by the *Residential Tenancies Act 1987*.

What if I am renting a room from an existing tenant?

If you are renting all or part of a house from an existing tenant, the tenant should have obtained approval from the owner before you moved in.

If the tenant has obtained the owner's approval and agreed that you could have 'exclusive possession' of all or part of the house then you are a sub-tenant.

If the tenant has obtained the owner's approval and you are staying in a room and paying rent to the tenant, but you do not have 'exclusive possession' of any part of the house, then you are a lodger.

If you are not sure whether you are a boarder, tenant, lodger or sub-tenant check with the Consumer Protection Advice Line on 1300 30 40 54.

How do I know if I have 'exclusive possession'?

'Exclusive possession' is the right to exclude all others, including the owner, from the house or room being rented.

This is different from exclusive 'occupation' or 'use' where you may have your 'own' room in which no one else can stay without your permission.

If your room has a lock, which physically stops the owner from entering, this does not automatically mean you have exclusive possession of the room. The 'house rules' may state that the manager or owner

is allowed to come into your room without your permission.

For example, if you receive any services such as cleaning, linen or meals, the owner would require unrestricted access to the premises or room in order to provide the services, so you would not have exclusive possession.

What are my rights as a boarder or lodger?

If you are a boarder or lodger, you have a right to:

- expect the house to be clean and tidy and in a reasonable state of repair when you move in and while you are staying in the house, including all the rooms, common areas, facilities, furniture and equipment supplied by the owner;
- privacy, peace and quiet and to use your room and facilities without interference by the owner;
- access to your room, toilets and bathrooms;
- access to common areas and facilities such as the laundry and the kitchen;
- security for your room and personal belongings; and
- be made aware of the house rules.

What are my responsibilities as a boarder or lodger?

Your responsibilities depend on what you have agreed with your owner. For example, you could be responsible for:

- keeping your room clean and tidy;
- paying your rent when it is due;
- following the house rules;
- asking your owner before you keep any pets at the premises;
- letting your owner know about any damage you or your visitors may have caused and paying for that damage;
- letting your owner know if furniture, fixtures or equipment needs to be fixed;
- making sure you don't disturb the privacy or peace of other residents;
- allowing your owner to enter your room to clean it or in an emergency; and/or
- keeping any vehicle you may own in an agreed place.

Can I be evicted?

If you are a boarder or lodger, your owner may ask you to leave without any reason at any time.

However, your owner must give you 'reasonable notice' to leave the premises and take your belongings. The length of notice may have been agreed before you moved in – check any written agreement you may have. If not you should be able to agree about a reasonable time with your owner, but be aware that you may have to move out at short notice.

'Reasonable notice' depends on the circumstances of each situation. For example, if you need to make arrangements to move furniture you may need more notice than if you are renting a furnished room.

An owner can evict you without any reason if you are a boarder or lodger.

Do I need to give any notice before I move out?

The length of notice you are required to give may have been agreed to before you moved in – check any written agreement you may have. You should give the owner time to do a check of your room and arrange for the return of any security bond you may have paid.

Written agreements

If the owner asks you to sign a written agreement, make sure you read it and agree with it before signing.

Always keep a copy of the written agreement. Get a receipt for any payments for rent or bond and keep those receipts.

If you have to pay a security bond, ask for a receipt that shows what the payment is for, for example part may be for the bond and part for the rent. If you are paying for rent in advance make sure the receipt shows the rental period covered.

You should inspect the rooms and common areas you will be using before deciding to move in.

How do I solve disputes?

If you have a problem with your lodging arrangements, you should always try to sort it out by discussing it with the owner first. If this does not work, you can contact one of the agencies listed below.

In some instances, you may be able to take civil action in the Magistrates Court. However, before taking such a step you should seek independent legal advice. If you have failed to meet your responsibilities as a boarder or a lodger, the owner is entitled to take action against you in court.

Questions to ask before deciding

- How much is the rent?
- How much do I need to pay before you can move in?
- Does the rent cover the cost of gas, electricity, water or telephone? If not, how will I be charged for them?
- What services will be offered by the owner and how much extra will they cost e.g. linen, laundry, cleaning or meals?
- Does the arrangement allow for medical assistance or special diets? Will these be provided and what will it cost me?
- Am I happy with the rules of the house?
- Are there any limitations on visitors, noise, hours of entering and leaving, use of common areas, parking or gardening?
- How long can I live here?
- Will there be a restriction or penalty if I leave after only a short time?
- How much notice do I need to give if I decide to leave, and how much notice will I receive if the owner asks me to leave?

Rent assistance

You may be eligible for Commonwealth Rent Assistance for the accommodation part of what you pay (not for food or meal expenses). To find out more, contact Centrelink on 13 2300.

Where can I get more information?

The Seniors' Housing Centre 1300 367 057

Tenants' Advice Service (08) 9221 0088 or 1800 621 888

Legal Aid Information Line 1300 65 05 79

The Department of Commerce has a booklet called, Boarders And Lodgers – Your Rights And Responsibilities. For a copy, contact the Consumer Protection Advice Line on 1300 30 40 54 or visit www.commerce.wa.gov.au/ConsumerProtection/PDF/Publications.

7. Boarders and lodgers

THIS PAGE HAS INTENTIONALLY BEEN LEFT BLANK.