

Tenancies update

Serving a Form 2 for rent arrears

A recent South Australian Civil and Administrative Tribunal (SACAT) decision has changed our understanding of when a Form 2 notice for rent arrears can be served on a tenant.

The [Form 2](#), often referred to as a 'breach notice', may be served when the agreement has been breached due to unpaid rent. The form can only be served if rent has been outstanding for not less than 14 days.

SACAT has found that a notice served for rent arrears is ineffectual unless it is served the day **after** rent was due. For example, if rent is paid to 1 September, rent is next due on 2 September and the first day of arrears is 3 September. This means that for the notice to be effective, the earliest it may be served would be 17 September.

The decision [Warretini-Jones v Lam](#) is available on the [Australasian Legal Information Institute \(Austlii\)](#) website. This decision is different to advice given about Form 2 timelines in the past. Future advice given will support this recent decision.

Reference: [Residential Tenancies Act 1995 - Section 80\(2\)\(a\)](#)

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