

**MAGISTRATES COURT of WESTERN AUSTRALIA
(CIVIL JURISDICTION)
GENERAL FORM OF AFFIDAVIT
FORM 2**

Registry:		Case number:
Phone:		
Fax:		
Claimant	(Name)	
Defendant	(Name)	

I, (name) of (address)

having been duly sworn say on oath the following:

1. I swear this affidavit in support of my application to suspend the termination and vacant possession orders made on (Date).
2. I am a single parent on Centrelink benefits.
3. I am a tenant in a property owned by the (Lessor).
4. I have lived in the property for (number) of years and live there with (number) of my children aged (age) and (age) years old.

The first hearing

5. On (date) the (Lessor) applied for my agreement to be terminated.
6. The application was to do with the condition of the property from an inspection in or about (date).
7. The (Lessor) listed the following 2 issues:
 - a. Walls that required re-painting; and
 - b. Rubbish in the yard.
8. The first court date for that application was (date) at (location) Magistrates Court.
9. I came to court on that date and spoke to the duty lawyer.
10. (Lawyer) and I discussed asking for the application to be put off so the rubbish on my verge (including white goods that no longer work, and old mattresses) could be collected by my local council when they do a verge collection on (date).
11. The Department of Child Protection had organised a skip bin to be delivered to my property in early (date).
12. The bin was there for a week and I filled it to the top with old furniture and rubbish.

13. White goods and mattresses could not be placed in it, so they were on my verge, along with some other items that didn't fit.
14. The white goods collection for my address was scheduled for (date).
15. I also wanted court to be put off so I could paint some of the inside walls.
16. (Lawyer) said she would ask the court if she could represent me and ask for the matter to be put off.
17. (Lawyer) was in her office with another person when my matter was called by the orderly so I went in by myself.
18. I believe I was told by the Registrar that the next court date was (date) at (time) and that I would need to do more cleaning and repairs before that date.
19. I made a note of the date and time in my diary while I was still at court.

Steps to fix the property

20. On (day, date) (Lessor) came to my house to see whether I had done the cleaning and repairs talked about in court.
21. I did not have enough money to buy the paint until my Centrelink payment on (day, date) so I had not yet done the painting.
22. The white goods and rubbish were still on the verge ready to be collected by the council.
23. On (date), after my Centrelink payment came through, I bought some paint.
24. I painted the living room and hallway walls on (date).
25. I had planned to take a photo of the walls to bring to court, but I had lost my phone and could not do this.

The second hearing

26. I arrived at Level 7 of the (location) Magistrates Court just after (time) on (date).
27. I saw (Lawyer) in the waiting room and she introduced me to the duty lawyer, (Lawyer).
28. I told them I had done some painting, but was still waiting for the council collection to clear the rest of the rubbish.
29. (Lawyers) spoke about what had happened on the last court date.
30. (Lawyer) told me to let the orderly know I was at court, and then we could talk more about what might happen that morning in court.
31. When the orderly came out of the court I was listed in, I let her know I was at court.
32. She told me my matter had already been called.
33. I asked what had happened and she told me I could find that out on Level 1 of the Magistrates Court.

34. I went down to Level 1 and a person from the court told me my agreement had been terminated and I would need to move out by (date).

35. I went back up to Level 7 and told (Lawyers) what had happened. I showed them my diary with my handwritten note I had court on (date) at (time).

36. (Lawyer) checked the court list while I was in the office with her and told me the matter was actually listed for (time).

37. (Lawyer) told me she would ask the orderly if my matter could be recalled.

38. After a little while, the orderly came into the office and told us the Registrar was not going to recall the matter.

Risks if the agreement is terminated

39. I am a single mother with (number) children.

40. I have (number) children aged (age) and (age) years old currently in my care.

41. We do not have anywhere else we can live.

42. If we move out on (date), I do not know where we would go.

43. I am on a (Centrelink benefit) payment and cannot afford private rent payments, and find it difficult to rent in the private rental market as an Aboriginal single mother.

44. As I have lived in the property for (number) years, my kids and I are part of the local community.

45. The (number) youngest kids in my care go to (school) which is very close to the property.

46. One of my children, (name) lives in the same suburb with her partner, (number) children and her partner's parents. They visit quite often.

47. (Number) of my other children (name) and (name) live in (location) together.

48. My son (name) lives with his child and partner in (location), who visit occasionally also.

49. I have never been in rent arrears or received a 'strike' in my (number) years in the property.

50. I did struggle to pay bond when I first moved in, and believe I had to enter a payment plan to pay it in instalments. No other payments have been late.

51. After the (Lessor) first noted that the property standards were not good enough, I took steps to fix each issue they brought up.

52. After court, I asked my daughter (name) to take photos of the walls I had painted.

53. I was there when she took the photos on her phone on (date).

54. I annex true copies of the original photos of painted walls and the cleaned yard to this affidavit, marked 'A', 'B', 'C', 'D', 'E' and 'F' dated (date).

55. This morning the council completed the verge collection and all the remaining rubbish was removed.

Special Circumstances

56. My solicitor at Tenancy WA has told me, and I verily believe, that a suspension is necessary to preserve the subject matter of the application, and that if I am evicted in accordance with a valid court order for termination, the court has no way of undoing this. For this reason, it is vital that a suspension order is granted to prevent this from happening until the appeal application can be dealt with.

SWORN

At this day

of 20 in the presence of

.....
Registrar/Justice of the Peace/other authorised witness

.....
Deponent

Each page is to be dated and signed by the person making the affidavit and the witness.

Tick [✓] appropriate box

Lodged by	<input type="checkbox"/> Claimant or claimant's lawyer <input type="checkbox"/> Defendant or defendant's lawyer <input type="checkbox"/> Other			
Address for service	c/o Tenancy WA, 2/18 Plain Street, East Perth 6004			
Contact details	Telephone: (Number)	Lawyer's ref: (Name)	Fax: (Number)	E mail: (Email)

as at 01/09/2008