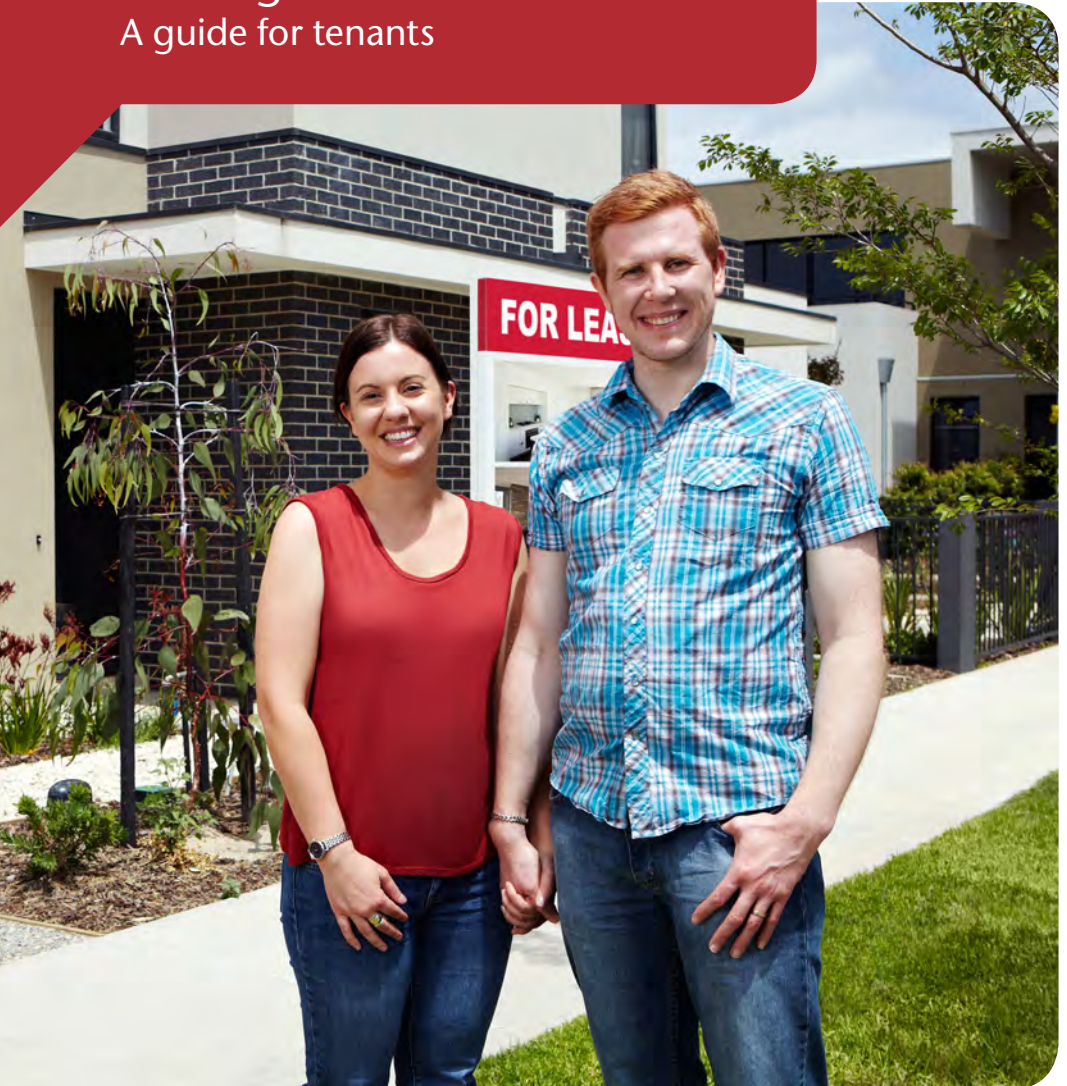


Renting a home

A guide for tenants



Disclaimer

Because this publication avoids the use of legal language, information about the law may have been expressed in general statements. This guide should not be relied upon as a substitute for the *Residential Tenancies Act 1997* or professional legal advice.

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Renting a home: A guide for tenants is the summary approved by the Director of Consumer Affairs Victoria of the rights and duties of a landlord and tenant under a tenancy agreement.

Under section 66 of the *Residential Tenancies Act 1997* (the Act) landlords and agents must give the tenant this guide on or before the day they move in.

Consumer Affairs Victoria can take tenants, landlords and agents to the Magistrates' Court for not obeying certain obligations under the Act. In some circumstances, the Magistrates' Court may impose a fine.

Additional copies

Additional copies of this guide are available from Consumer Affairs Victoria's website consumer.vic.gov.au. To order more than five copies download an order form from consumer.vic.gov.au.

Information about renting is available in 20 languages at consumer.vic.gov.au/languages. If you have difficulty understanding English, contact the Translating and Interpreting Service (TIS) on 131 450 and ask to speak to Consumer Affairs Victoria on 1300 55 81 81.

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Essentials for tenants

Do not sign anything unless you understand what it means. Never sign a blank form, even if it looks official. All official notices you give your landlord or agent must include their name, your signature and other details in some circumstances.

At the beginning of a tenancy

- read and sign your 'Residential Tenancy Agreement' form
- keep a copy of anything you sign
- seek advice if you have a tenancy issue or question
- check that your new home is completely safe
- complete a 'Condition Report' if you have paid a bond – you can add to or edit a 'Condition Report' completed by an agent > *see page 12 for details*
- consider taking photos of the property before you move in
- complete and sign the 'Bond Lodgement' form and keep the receipt > *see page 11 for details*
- contact the utility companies of your choice to ensure these are connected by the time you move in.

During a tenancy

- communicate with your landlord or agent and keep them informed of any problems that may arise
- make sure you pay your rent on time
- keep all records such as rent receipts
- keep your property reasonably clean; this will minimise any problems that may occur during a landlord or agent inspection
- get written permission from your landlord if you wish to sub-let or assign the tenancy agreement to someone else
- let your landlord or agent know of any repairs that need to be done > *see pages 19–21 for details*
- put all requests to your landlord or agent in writing. Forms are available from Consumer Affairs Victoria.

At the end of a tenancy

- give adequate notice when planning to leave; the notice period will depend on your reason for leaving > *see page 28 for details*
- pay any outstanding rent
- check your responsibilities for separately metered utilities
- clean the property
- consider taking photos after you move your furniture out to show the condition of the property
- take all your belongings with you > *see page 34 for details*
- keep the 'Condition Report' in case of a dispute
- try to agree with your landlord on the return of the bond > *see page 33 for details*
- if you have paid a bond, complete the 'Bond Claim' form and return it to the Residential Tenancies Bond Authority. The form must be signed by you and your landlord or agent
- leave a forwarding address with your landlord or agent or Australia Post.



PART 1: Beginning a tenancy



At the start of your tenancy

- ✓ *Carefully read and understand the tenancy agreement before you sign it.*
- ✓ *Get the landlord or agent's contact details.*
- ✓ *Pay the bond if required.*
- ✓ *Pay rent in advance if required.*
- ✓ *Fill out and keep a copy of the 'Condition Report'.*

Tenancy agreements

A tenancy agreement, also called a lease, can be in writing or verbal. If a tenancy agreement is in writing it should be in the proper legal form. Tenancy agreement forms are available from Consumer Affairs Victoria.

There are two types of tenancy agreements:

1. A fixed-term agreement is for an initial set period.
2. A periodic agreement has no end date.

A tenancy agreement is a legal contract between you and your landlord.

It outlines:

- the rent you need to pay and how to pay it
- the length and type of tenancy
- the amount of bond required
- other conditions and rules.

Most people who sign a tenancy agreement pay rent to a landlord or agent working for the landlord.

Note:

If you or your landlord does not give notice to end a fixed-term agreement, you will automatically roll over to a periodic tenancy agreement.



For more information about ending a tenancy, see page 25.

Signing your rental agreement

Before you sign the tenancy agreement:

- your landlord or agent must give you a copy of the unsigned document
- read it carefully and make sure you understand it.

Once the tenancy agreement has been signed, your landlord or agent must give you a copy within 14 days.

Your landlord or agent must give you:

- their full name and address
- an emergency telephone number and (in the case of agents) fax number.

Your landlord or agent can be fined if:

- they do not provide these details on or before the first day of your tenancy agreement
- they do not advise you of any changes to their contact details within seven days.

An agent, rather than the landlord, may manage your property directly. If this is the case, the agent must also provide you, in writing:

- details of who can authorise urgent repairs, and
- if the agent can authorise urgent repairs, the maximum amount they can authorise

Tenants with children

In most circumstances, a landlord cannot legally refuse to rent a property to tenants with children. This is discrimination and is against the law.

For information about discrimination in accommodation, contact the Victorian Equal Opportunity and Human Rights Commission > *see page 41 for contact details*

Pets

The *Residential Tenancies Act 1997* does not make any mention of pets.

However, it may be possible to have a clause in a lease that bans pets that could harm the property, be a nuisance to neighbours, or break local government laws.

If you have a pet or intend to get one, you should let your landlord know as it may affect the landlord's insurance.

If you keep a pet that has been causing damage or nuisance, you can be issued with a 'Breach of Duty' notice by the landlord.

If your pet has been found to be endangering the safety of neighbours, you may be given an immediate 'Notice to Vacate' by the landlord.

Tenancy databases

Tenancy databases, also referred to as 'blacklists' or 'bad tenant databases', contain information about the renting history of certain tenants.

A landlord or agent can pay a membership fee to access a database when choosing a tenant for a property. They can use the database to:

- search for and screen prospective tenants
- list previous tenants.

Notifying prospective tenants about databases

When you apply to rent a property, the landlord or agent must:

- advise you if they subscribe to a database
- provide you with the contact details of the database operator.

The details must be in writing and should be included with the 'Residential Tenancy Agreement' form.

If the landlord or agent finds details of you on a database, they must advise you in writing, within seven days, of:

- the name of the database and the person who listed the information
- the information held in the database
- how you can check, change or remove the listing (i.e. by contacting the database operator or the person who listed you).

The landlord or agent can face significant penalties for not advising you about databases.

Listing a tenant on a database

You can only be listed on a database if:

- you were named on the tenancy agreement
- the agreement has ended
- you breached the agreement and because of the breach, you owe an amount more than the bond, or VCAT has made a possession order.

This applies if you breached your tenancy agreement by:

- maliciously damaging property
- endangering neighbours' safety
- not paying rent
- failing to comply with a VCAT order
- using the property for illegal purposes
- sub-letting the property without the landlord or agent's consent.

Before listing a tenant on a database, the landlord or agent (or the database operator) must notify the tenant in writing, and provide them with 14 days to object.

Updating or removing listings

Listings more than three years old must be removed from a database.

If the landlord or agent become aware that information listed is inaccurate or out-of-date, they must notify the database operator within seven days.

The operator must then change or remove the listing within 14 days.

You can apply to VCAT to change or remove inaccurate or out-of-date listings.



Guarantees

A guarantee is an agreement where a person, other than you, agrees to pay the landlord for any losses incurred if you breach any part of your tenancy agreement or the *Residential Tenancies Act 1997*.

Your landlord can only ask for a guarantee as well as a bond when:

- the rent is more than \$350 a week, or
- you are renting your landlord's principal place of residence until they resume living there. This condition must be stated in the lease.

If there is a guarantee but no bond, the guarantee can only be enforced if the amount is no more than one month's rent.

Rent in advance

If you pay rent weekly, your landlord cannot ask for more than 14 days' rent at the beginning of a tenancy. In any other case, provided the rent is \$350 a week or less, the landlord cannot ask for more than one month's rent in advance.

Deposits and charges

A landlord can ask you for a holding deposit. This must be refunded when the tenancy agreement is signed.

If no tenancy agreement is made within 14 days, the money must be refunded by the next business day.

A landlord, agent or other third party cannot charge for:

- showing you a property
- issuing a rent payment card
- establishing or using direct debit facilities
- making, continuing or renewing a tenancy agreement (this may also be referred to as a premium, bonus, commission or key money).

The bond

Most landlords will ask you to pay a bond. A bond acts as a security that you will meet the terms of your tenancy agreement. If you fail to keep the property clean, cause damage or are in rent arrears, your landlord can claim some or all of the bond when the tenancy ends.

If your rent is \$350 a week or less, the bond cannot be more than one calendar month's rent. Your landlord cannot increase the bond during your tenancy.

Looking after the bond

Your bond money is held by the Residential Tenancies Bond Authority (RTBA).

If your landlord receives a bond, they must give you a completed and signed official 'Bond Lodgement' form to sign.

'Bond Lodgement' forms can be generated on the RTBA Online website at rentalbonds.vic.gov.au.



Forms are also available from Consumer Affairs Victoria: call 1300 55 81 81.

Payment must be made by cheque or money order to the 'Residential Tenancies Bond Authority'. *The postal details are on page 40 and on the 'Bond Lodgement' form.*

The RTBA will send a receipt to you and your landlord. Contact the RTBA if you have not received a receipt 15 business days after paying your bond.

Bonds from the Director of Housing (DoH)

If you are on a low income and can afford to rent privately, but are struggling to pay the up-front costs, you may be eligible for a bond loan from the DoH.

A DoH 'Bond Lodgement' form must be used when the DoH contributes some or all of the bond. The DoH will issue the form with the bond payment when a bond loan is approved.

To find out if you are eligible for a DoH bond loan, contact the DoH through the Office of Housing > *see page 41 for contact details.*

Dishonoured bond payments

If a bond payment to the RTBA is dishonoured, the landlord can organise to collect the money and re-lodge the bond, give you a 14-day 'Notice to Vacate' for non-payment of a bond, or waive the bond.

Difference between bond and rent

Your bond and rent are separate payments. You may be fined for treating any part of the bond as rent.

You must continue to pay rent until you vacate even if:

- your landlord has refused to do repairs
- you have given your landlord notice of your intention to vacate
- your landlord has given you a 'Notice to Vacate'.

The 'Condition Report'

If you have paid a bond, your landlord must prepare a 'Condition Report', which notes the property's general condition, including fittings and fixtures.

Even if you have not paid a bond, it is still a good idea to get a 'Condition Report'.

Consumer Affairs Victoria has a 'Condition Report' form to help you rate the condition of your new home.

The 'Condition Report' can be used as evidence if there is a dispute about who should pay for cleaning, damage, or replacement of missing items.

If possible, take photos of the premises before you move in to further show their condition.

Your landlord must provide you with two copies of the signed 'Condition Report' before you move in.

Review and, if necessary, add your comments to the 'Condition Report'. Return the report to your landlord within three business days of moving in. All parties should keep their copy of the 'Condition Report' until the end of the tenancy.

Your landlord may claim some or all of the bond for cleaning, damage, or replacement of missing items at the end of your tenancy. If the 'Condition Report' stated that the work was required at the start of the tenancy, or the items were not listed, it can help you prove the bond should be returned to you.

Completing the 'Condition Report'

It is important to note on the 'Condition Report' if you disagree with any points.

Check that everything attached to a ceiling, wall or a door (for example, light fittings, mantelpieces, hooks and handles) is fixed securely and unlikely to injure anyone.

Take photographs, particularly of any features of the premises you have made a note of in the condition report.

Reporting safety issues

You should inform your landlord of any defects that pose a threat to safety so these can be fixed by an expert. If you report a safety risk and it is not fixed, you can take further action > *See the section on 'Repairs' on page 19.*



If the problem is serious enough to make the premises unsafe to live in, notify your landlord immediately. If the problem cannot be fixed, you may be able to end your tenancy agreement.

Contact Consumer Affairs Victoria on 1300 55 81 81 for further advice.

Water meter readings

In the Melbourne metropolitan area, if the property has a separate meter, your landlord:

- can arrange for you to be billed for water usage and sewage disposal
- must give your contact details to the water provider, who will read the meter and commence billing.

If your property is outside the Melbourne metropolitan area, you need to notify the water provider yourself at least two business days before moving in.

If you do not, you will have to pay for the total amount of water supplied to the premises since the last meter reading.

It is a good idea to confirm the details in a letter to the water provider and keep a copy.

Utility connections

When starting a tenancy, you should:

- contact the utility providers of your choice to ensure gas and electricity are connected
- arrange for bills to be in your name
- leave enough time to arrange any connections prior to moving in.

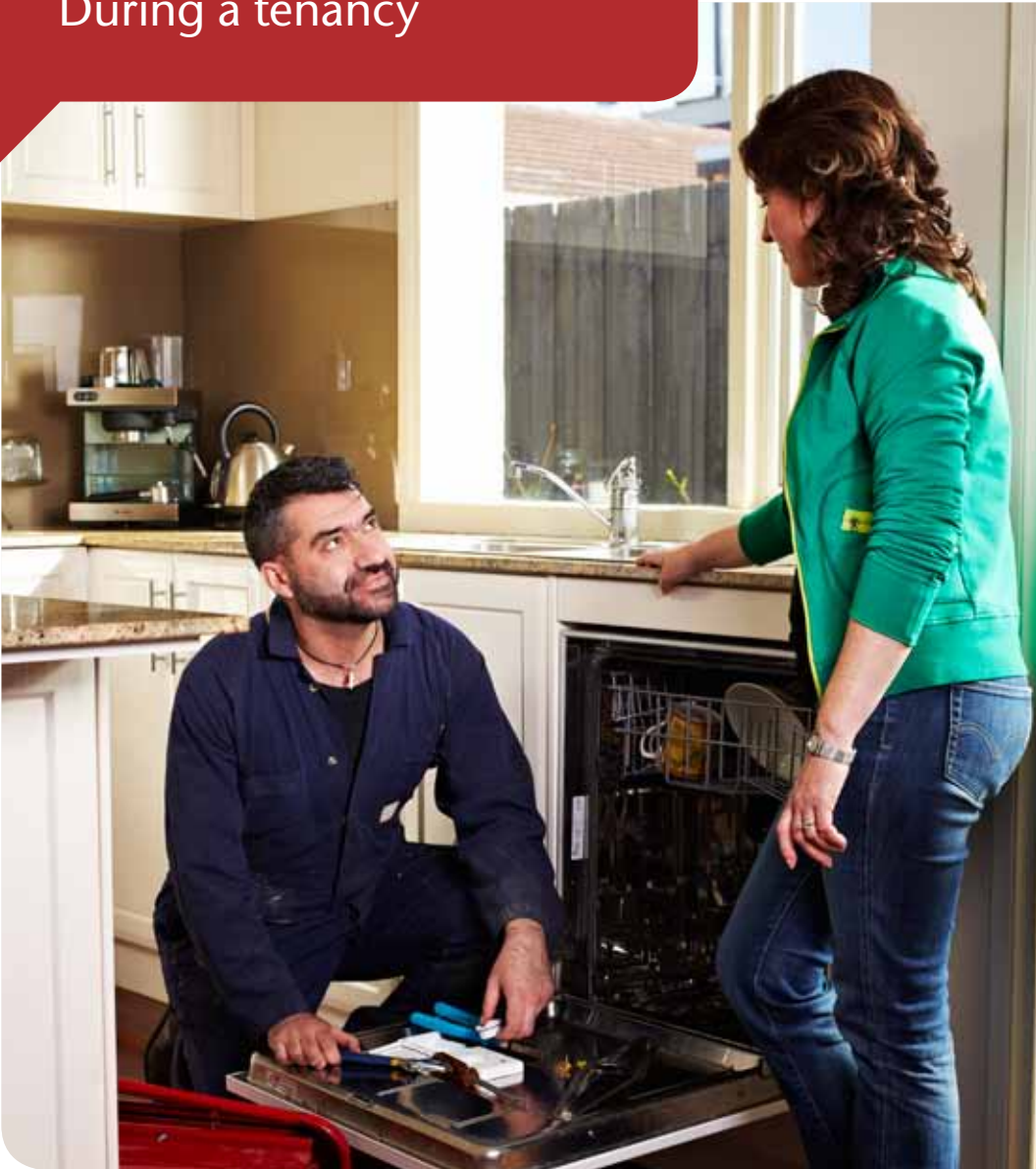
Some agents will offer a connection service via an external company. You do not have to tick the box on the tenancy application form for this service; if you do, you are only consenting to having the connection company call you.

Note:

The landlord is responsible for fitting smoke alarms.



PART 2: During a tenancy



Paying rent

- ✓ *Pay your rent on time.*
- ✓ *Get a rent receipt.*

You are responsible for paying your rent on time. You must continue paying it until the tenancy ends.

Remember:

If any rental payments are late or not made, you may be in breach of your tenancy agreement. If the rent is 14 days or more behind, your landlord or agent can give you a 14-day 'Notice to Vacate'.



Rent receipts

You are entitled to receive a receipt for each rent payment. Your landlord or agent who receives the rent must:

- give you a receipt immediately if you pay in person
- give you a receipt within five business days if you do not pay in person but request a receipt
- keep a record of the payment for 12 months. If you request a copy within that time, they must provide you with a copy of the record within five business days.

The landlord can be fined if the rules on providing rent receipts are not followed.

A rent receipt must include:

- your landlord's signature
- your name
- property address
- payment date
- what period the payment was for
- how much was paid
- a statement that it is a rent receipt.

Communicating with your landlord



You and your landlord may need to contact each other regarding issues such as rent increases, sub-letting, damage to the premises, or ending the tenancy.

You should always communicate or confirm important matters in writing. Your written communications should be clear, signed, and include all the necessary details. Keep copies for future reference. Consumer Affairs Victoria has forms available for a range of scenarios.

See consumer.vic.gov.au/renting for details.



Water expenses

If the property has its own meter, you must:

- pay for water consumption, and
- (in the Melbourne metropolitan area) sewage disposal, unless your landlord has agreed to pay these charges. This agreement must be in writing and signed by the landlord.

The landlord must pay all other charges related to water supply, although different rules may apply when a tank is the main source.

Environment Victoria publishes *The Victorian Green Renters' Guide: Sustainable Living Tips for Renters*.

You can download a copy at environmentvictoria.org.au/rentersguide or call (03) 9341 8100.



Other utilities

Your landlord must pay all installation and initial connection costs for electricity, gas and oil supply. If there is a separate meter, you must pay for all other charges for these amenities, unless otherwise agreed. If there is no separate meter, your landlord must pay.

Where bottled gas is provided, your landlord pays for the supply or hire of bottles, and you pay for the gas. Your landlord must reimburse you:

- if you have paid the costs of any utilities for which your landlord is liable
- for any rates or taxes paid to a public authority that are not part of consumption charges for the service.

Read your tenancy agreement carefully and make sure you clearly understand who is responsible for paying utilities.

Tenants in housing owned or subsidised by the government may be charged separately for expenses such as heating and laundry.

Looking after the property

Tenants, landlords and agents have responsibilities during a tenancy.

As a tenant you must:

- keep the premises reasonably clean
- not cause damage
- notify your landlord of any damage as soon as possible
- ensure you and your visitors respect your neighbours' rights to privacy, peace and comfort
- ensure the property is not used for any illegal purpose
- obtain consent from the landlord before installing any fixtures, or making any alterations/renovations.

Your landlord or agent must:

- give you a copy of this guide on or before the day you move in
- ensure the rented premises are vacant and in a reasonably clean condition on the day you move in
- keep the premises in good repair
- ensure any replacement water appliance, fitting or fixture meets energy efficiency standards
- give you a key as soon as possible after changing any lock
- let you have peace and quiet in the premises
- not carry out a general inspection of the premises until after the end of the first three months of continuous occupation. This does not apply if the landlord is selling the property, and wishes to inspect it for valuation purposes
- follow the rules about proper notice periods for ending a tenancy
> see pages 26–27 for details.

Your landlord or agent must give you a copy of this guide on or before the day you move in.

Your privacy

Landlords or agents who collect personal information from you may be bound by privacy laws, placing restrictions on how this information is passed on to third parties. If you think your personal information is being misused, contact the Federal Privacy Commissioner on 1 300 36 39 92 or visit privacy.gov.au.

If you do not meet your responsibilities

Your agent or landlord can issue you with a 'Breach of Duty' notice if you do not meet certain responsibilities. The notice will ask you to rectify the problem. If the problem continues, your agent or landlord could ask the Victorian Civil and Administrative Tribunal (VCAT) to make an order.

If a landlord or agent does not meet their responsibilities

You can also send your landlord or agent a 'Breach of Duty' notice under certain circumstances if you believe they are not meeting their responsibilities.

Before you issue a 'Breach of Duty' notice, it is recommended you contact Consumer Affairs Victoria or a tenancy advocacy service for more information.





Sharing a property

There are generally two types of arrangement when tenants are sharing a property.

Co-tenancy

In a co-tenancy, every tenant signs the tenancy agreement and all names appear on the form. Usually, the bond amount is divided equally among all tenants. However, each tenant is responsible for the full amount of the bond, not just their share.

Remember:

In a co-tenancy, any one individual can be held responsible for the actions of all the tenants if, for example, rent is owing or the property has been damaged.



Sub-letting

In the case of sub-letting, one or more existing tenants will rent out part or all of the property to other people. The tenants who signed the initial tenancy agreement are the 'head tenants' and those tenants renting from them are called 'sub-tenants'.

Your landlord cannot unreasonably refuse permission for you to sub-let the property. It is illegal for them to charge a fee for giving permission. If you sub-let, you will become the landlord to your tenant and must take on those responsibilities.

If you believe your landlord is refusing to allow you to sub-let without a good reason, you can apply to the Victorian Civil and Administrative Tribunal (VCAT) for a ruling. If you are living in public housing, your landlord is generally allowed to refuse permission for you to sub-let.

Remember:

You must get your landlord's written permission before sub-letting any part of the property. It is a good idea to seek advice when considering sub-letting and before finalising any agreement.



Bond

If your landlord gives permission for you to sub-let and you take a bond from a sub-tenant, you must lodge the bond with the Residential Tenancies Bond Authority (RTBA) within 10 business days. The RTBA will consider you as a landlord for this purpose.

Change of landlord or tenant

If a new landlord or agent takes over the property:

- the previous and new landlords/agents must complete and sign an 'Agent/Landlord Transfer' form and send it to the RTBA within five days of the changeover, and
- they must give you a copy of this form.

If a new tenant moves in under the existing tenancy:

- you must get your landlord's written permission to assign the tenancy agreement to someone else
- the landlord or agent and the incoming, outgoing and any continuing tenant must complete and sign a 'Tenant Transfer' form to change ownership of the bond
- they should not pay the bond directly to any other tenant without signing a 'Tenant Transfer' form
- you must send the form to the RTBA within five days of the new tenant moving in.

A fine can be imposed for not sending a transfer form to the RTBA.

If you are living in a rooming house, please refer to *Rooming houses: A guide for residents and operators*.



Copies of this guide are available from consumer.vic.gov.au

Repairs

- ✓ *Document repair requests in writing.*
- ✓ *Keep copies of all letters, forms and reports for future reference.*
- ✓ *Use forms from Consumer Affairs Victoria.*

Repairs are your landlord's responsibility. However, if you caused the damage, the landlord can ask you to arrange to repair it or pay for repairs they undertake.

Tenants, landlords and agents must follow set procedures when dealing with urgent and non-urgent repairs. You must continue to pay rent even while waiting for repairs.

However, if the matter has gone to the Victorian Civil and Administrative Tribunal (VCAT), you can apply for the rent to be paid into VCAT's Rent Special Account until the issue is resolved.

Urgent repairs

If you request urgent repairs the landlord or agent must respond immediately.

Urgent repairs are:

- a burst water service
- a blocked or broken toilet system
- a serious roof leak
- a gas leak
- a dangerous electrical fault
- flooding or serious flood damage
- serious storm or fire damage
- a failure or breakdown of any essential service or appliance provided by your landlord or agent for hot water, water, cooking, heating, or laundering
- failure or breakdown of the gas, electricity, or water supply
- any fault or damage in the premises that makes the premises unsafe or insecure
- an appliance, fitting or fixture that is not working properly and causes a substantial amount of water to be wasted
- a serious fault in a lift or staircase.

Steps you can take to have an urgent item repaired



Speak with your landlord about whether your repair is urgent. If you request urgent repairs, the landlord or agent must respond without delay. If a repair is urgent and you are not getting a prompt response from your landlord or agent, you can authorise the repair for up to \$1800.

You can then give your landlord or agent a notice asking that they pay you back for the cost of the urgent repairs. Your landlord or agent has 14 days to pay from the date they receive the notice.

If:

- the landlord or agent does not complete the urgent repairs and they are going to cost more than \$1800, or
 - you cannot afford to pay for them, or
 - the landlord refuses to reimburse you if you have paid for the repairs
- you can apply to VCAT, which will hear the application within two business days. VCAT can order the landlord or agent to arrange the repairs.

Non-urgent repairs

- ✓ *Write to your landlord or agent telling them what needs to be repaired.*
- ✓ *You may use Consumer Affairs Victoria's 'Notice to Landlord of Rented Premises' form.*

If you give your landlord or agent a list of repairs that need to be done, they have 14 days to carry them out.

If they do not carry out the repairs, send Consumer Affairs Victoria a copy of the written notice with a letter asking for an inspector to visit the property. The inspector can fill out a report on whether the landlord is in breach of their duty to ensure that the premises are maintained in good repair.

If the repairs still have not been done after you receive the inspection report, you then have 60 days to apply to VCAT for a repair order.

You must continue to pay rent even if your landlord has not arranged for the repairs. However, if the matter has gone to VCAT, you may apply for the rent to be paid into VCAT's Rent Special Account until the issue is resolved.

Temporary accommodation while repairs are carried out

You are not liable for rent if repairs or renovations make your accommodation temporarily unfit for occupation and you have to find somewhere else to live while the repairs are completed.

You are responsible for paying for your temporary replacement accommodation and related expenses such as meals, transport and pet accommodation.

Entry to the premises

What your landlord can do:

- Your landlord may enter your property at a date and time that you have both agreed on. However, this agreement cannot be made more than seven days before the entry.
- In any other case, your landlord has the right to enter with 24 hours written notice to you, in order to:
 - carry out duties specified in your tenancy agreement, *Residential Tenancies Act 1997* or any other Act
 - value the property
 - show prospective buyers or financial lenders through the premises
 - show prospective tenants through the premises (within 14 days of the lease termination date)
 - verify a reasonable belief that you have not met your duties as a tenant
 - make one general inspection in any six-month period, but not within the first three months of the tenancy

The landlord or agent can only enter between 8am and 6pm, and not on public holidays. If you are home, you must let the landlord in, providing the appropriate notice has been given or agreement reached not more than seven days before.

Your landlord can enter the premises if you are not home, providing that suitable written notification has been given. However, it is recommended that you are at home during a landlord visit.

The inspection notice must be hand delivered between 8am and 6pm or posted to you.

What landlords cannot do:

Whether entering at an agreed time, or with 24-hours notice, the landlord does not have the right to:

- enter in an unreasonable way
- stay any longer than necessary to do what is required, unless it is with your permission.

Note:

You do not have to agree to a verbal request from your landlord to enter the premises.

You may request your landlord provide written notice and a reason for entering the property.



Rent increases

What you should know:

- If your tenancy agreement is for a fixed term, your landlord cannot increase the rent before the end date, unless the agreement states otherwise. You can negotiate this with your landlord.
- Your landlord cannot increase the rent more than once in any six-month period.
- Your landlord must give you at least 60 days' notice of any rent increase using the 'Notice of Rent Increase to Tenant/s of Rented Premises' form.
- If your rent was \$350 or less per week when you first moved into the property, your landlord cannot increase the bond during any subsequent agreement, even if the rent becomes more than \$350 per week.

Contact Consumer Affairs Victoria on 1300 55 81 81 if you need advice on understanding your tenancy agreement.

What to do if you think your rent increase is too high



You can request a rent assessment from Consumer Affairs Victoria if you think:

- a rent increase is too high
- your rent under the tenancy agreement is excessive given that some or any of the services, facilities or other items have been withdrawn or reduced.

A request for a rental assessment for excessive rent increase must be made in writing within 30 days of receiving a 'Notice of Rent Increase to Tenant/s of Rented Premises'.

You have 30 days from receiving the rent assessment report to apply to the Victorian Civil and Administrative Tribunal (VCAT) for a hearing. VCAT may set a maximum rent if the report is accepted.



PART 3: Ending a tenancy



Ending a tenancy agreement

A tenancy agreement can only be ended in accordance with the *Residential Tenancies Act 1997*.

If you want to end the tenancy:

- ✓ Advise your landlord or agent in writing if you want to leave the property.
- ✓ Make sure you give the appropriate notice > see page 30 for details.
- ✓ Ensure that your notice is delivered within a suitable time.

There are three main ways to end a tenancy:

1. All the parties can agree to end the tenancy.
2. Your landlord gives you a valid 'Notice to Vacate'.
3. You give valid notice to your landlord that you intend to vacate.

Even if a tenancy has a fixed end date, notice must be given to end it.

Remember:

Leaving and stopping rent payments without giving the appropriate notice is a breach of the contract between you and your landlord. VCAT can award compensation to landlords for money lost because of such a breach.



If your landlord wants to end the tenancy:

- ✓ They must give you a 'Notice to Vacate' in the correct written form.
- ✓ The notice must be sent to you at the rented premises by registered post, or given to you in person.

Agreeing to end a tenancy early

- You and your landlord can agree to end the tenancy early.
- It is important to put the decision in writing.
- This written notice should include any agreed costs, terms and conditions, and the date the tenancy is to end.
- If you have a fixed-term agreement but need to end your lease early, you should give written notice as soon as possible that you are leaving. Breaking a tenancy agreement may require you to pay compensation to your landlord.
- Either party can apply to the Victorian Civil and Administrative Tribunal (VCAT) to end a tenancy early on the basis of hardship
> see page 40 for VCAT's contact details.

When your landlord wants to end the tenancy

- They must complete and give you a valid 'Notice to Vacate' form.
- The notice must be sent to you at the rented premises by registered post, or given to you in person.

Reasons and minimum notice periods

Under certain conditions, a landlord can legally end a fixed term or periodic tenancy agreement.

Table 1 (below) shows the reasons a landlord may end a tenancy before the end of the tenancy agreement.

Table 1: Reasons your landlord can ask you to vacate before the tenancy agreement ends	Minimum notice required [^]
Damage is maliciously caused to the premises or common areas by you or your visitor.	Immediate notice
You or your visitor put neighbours in danger.	Immediate notice
If the premises are: <ul style="list-style-type: none"> • totally destroyed • partly destroyed and unsafe • unfit to live in. 	Immediate notice
You owe at least 14 days' rent.	14 days
You have breached a VCAT compliance order or compensation order.	14 days
You have already been given two 'Breach of Duty' notices and the same breach occurs.	14 days
The premises are being used for illegal purposes.	14 days
Other tenants sub-let from you without the landlord's consent.	14 days
You did not pay the bond as agreed.	14 days
You have a child living at the premises when the agreement does not allow children.	14 days
The landlord is a government housing authority and you misled the authority so you could be accepted as a tenant.	14 days
You have engaged in a drug-related activity in public housing.	14 days

[^] Allow extra time when mailing. Check page 30 to calculate the extra time correctly.

Table 2 (below) shows the reasons a landlord can end a tenancy, but not before the end of the tenancy agreement.

Reasons your landlord can ask you to vacate, but not before the tenancy agreement ends	Minimum notice required [^]
The tenancy agreement has a fixed term or set end date and states that you have rented the landlord's own home and the landlord will occupy it at the end of the tenancy agreement.	14 days
The landlord is a government housing authority and you have unreasonably refused to seek or accept an offer of alternative accommodation.	30 days
Planned reconstruction, repairs or renovations (for which all necessary permits have been obtained) cannot be properly carried out unless you vacate.	60 days
The premises are to be demolished and all necessary permits have been obtained.	60 days
The landlord wants to do something else with the premises (for example, use them for a business).	60 days
The landlord, a member of the landlord's immediate family (including parents and parents-in-law) or a dependant (who normally lives with the landlord) will be moving in.	60 days
The premises are to be sold or offered for sale with vacant possession immediately after the termination date of the tenancy agreement.	60 days
The premises have been sold and all sale conditions have been satisfied.	60 days
A government authority owns the premises and needs them for public purposes.	60 days
It is the end of a fixed-term tenancy agreement of fewer than six months.	60 days
It is the end of a fixed-term tenancy agreement of six months or more.	90 days
The landlord is a government housing authority and the tenant no longer meets its eligibility criteria.	90 days
No specified reason, but not just because you, as the tenant, have been exercising your rights or saying you will do so.	120 days

[^] Allow extra time when mailing. Check page 30 to calculate the extra time correctly.

When you want to end the tenancy, you are advised to use the 'Notice to Landlord of Rented Premises' form available from Consumer Affairs Victoria.

When you want to end the tenancy

You are advised to use the 'Notice to Landlord of Rented Premises' form available from Consumer Affairs Victoria.

You must give your landlord the correct amount of written notice.

Remember:

In cases of severe hardship, you can apply directly to the Victorian Civil and Administrative Tribunal (VCAT) to reduce the fixed-term tenancy.



Your notice of intention to vacate must:

- be in writing
- be signed by you or your representative
- give a reason, if applicable
> see Table 3 on page 29
- give the date you plan to leave, taking into account the amount of time required under notice periods.

Delivering a notice of intention to vacate can be done by:

- personally delivering it to your landlord
- leaving it for your landlord at their residence or business with a person apparently over the age of 16 and apparently living or employed there
- giving it to an authorised officer of the corporation employed at its registered office, if your landlord is a corporation
- posting it to your landlord at their residence or business or, if your landlord is a corporation, posting it to the corporation's registered Victorian address.

It is a good idea to use registered post so there is proof of when and where the notice was sent.

Ending an agreement before you move in

You can end an agreement before you move into the property if the property is:

- not vacant
- not in good repair
- totally destroyed
- partly destroyed and unsafe
- unfit for human habitation
- not legally available as a residence
- not available for occupation.

Reasons and minimum notice periods

The minimum amount of time required for giving notice depends on the reason, as outlined in Table 3 below.

Table 3: Reasons you can give your landlord for vacating	Minimum notice required [^]
If the premises are: <ul style="list-style-type: none"> totally destroyed partly destroyed and unsafe unfit to live in. 	Immediate notice
The landlord has breached a VCAT compliance order or compensation order.	14 days
You have already given two 'Breach of Duty' notices to the landlord and the breach has re-occurred.	14 days
You require temporary crisis accommodation.	14 days, but if there is a fixed-term tenancy agreement, the end date on the notice cannot be before the end date of the agreement
You require special or personal care. Special or personal care means assistance with: <ul style="list-style-type: none"> bathing, showering or personal hygiene toileting dressing or undressing meals physical help with mobility problems supervision or assistance supervision in dispensing medicine, or substantial emotional support in a health or residential service. 	As above
You are offered public housing.	As above
Any other reason.	28 days, but if it is a fixed-term tenancy agreement, the end date on the notice cannot be before the end date of the agreement

[^] Allow extra time when mailing. Check page 30 to calculate the extra time correctly.

Calculating minimum notice periods

The following table shows the total number of days to allow when a notice is sent by **registered post**. More days should be added for any public holidays that fall within the postal period.

Minimum notice period	Day mail was posted					
	Monday	Tuesday	Wednesday	Thursday	Friday	Saturday
Immediate	3	3	3	5	5	5
14 days	18	18	18	20	20	20
28 days	32	32	32	34	34	34
60 days	64	64	64	66	66	66
90 days	94	94	94	96	96	96
120 days	124	124	124	126	126	126

The following table shows the total number of days to allow when a notice is given by **hand**.

Minimum notice period	Given on					
	Monday	Tuesday	Wednesday	Thursday	Friday	Saturday
None	–	–	–	–	–	–
14 days	16	16	16	16	16	16
28 days	30	30	30	30	30	30
30 days	32	32	32	32	32	32
60 days	62	62	62	62	62	62
90 days	92	92	92	92	92	92
120 days	122	122	122	122	122	122

Challenging a 'Notice to Vacate'

You have the right to challenge a 'Notice to Vacate'. You may argue against the notice if it is not given properly or if you disagree with the reason given.

You can also challenge a 'Notice to Vacate' given for no specified reason or to end a fixed-term tenancy, if you believe it was given because you were exercising your legal rights or saying you would do so.

You must apply to the Victorian Civil and Administrative Tribunal (VCAT) to challenge a notice within specific timeframes depending on the reason and the minimum time period of the notice.

You must apply to VCAT within:

- **60 days** of receiving a 120-day 'no specified reason' notice
- **28 days** of receiving a 90-day notice to end a fixed-term agreement
- **21 days** of receiving a 60-day 'end of fixed-term' notice
- **30 days** of receiving any other 60-day notice.

Asking for more time to vacate

If you have been served with a 'Notice to Vacate' but are finding it difficult to move out of the property on time, you may try to negotiate a solution with your landlord.

You can also contact Consumer Affairs Victoria or a tenancy advocacy service for more information about your options.

Getting evicted

If you have been given the appropriate notice to vacate your rental property, and have not left by the end of the due

date, the landlord can seek an Order for Possession from the Victorian Civil and Administrative Tribunal (VCAT).

This order may instruct you to vacate. It may also allow the landlord to obtain a Warrant for Possession, which may then be executed by the police to evict you.

Remember:

A landlord cannot personally use force to remove you from the property. Only the police may carry out an eviction, and only when they are acting on a Warrant for Possession.



VCAT will set a hearing after your notice to vacate has expired. You must go to the hearing if you wish to dispute the landlord's reason for wanting to evict you.

If you are likely to be evicted, try to make arrangements so that you will have somewhere to stay.

You should also organise to collect your belongings > see page 34 for details.

Consumer Affairs Victoria, the Tenants Union of Victoria and other organisations can provide support, advocacy and advice to people who are facing eviction.



See page 38 for more information about Consumer Affairs Victoria's Tenancy Advice and Advocacy Program, and the Tenants Union of Victoria.

PART 4: Leaving a tenancy after giving or receiving notice



Preparing to leave the property

- ✓ *Discuss the return of the bond with your landlord or agent.*
- ✓ *Finalise any outstanding rent and bills.*
- ✓ *Take your belongings with you.*
- ✓ *Provide a forwarding address.*

Agreeing on the return of the bond

At the end of a tenancy you and your landlord should:

- attempt to agree on how the bond money is to be divided. For example, there may be some property damage that needs repair
- set out the agreed division in a 'Bond Claim' form, which is sent to the Residential Tenancies Bond Authority (RTBA)
- use a new 'Bond Claim' form if any changes need to be made, as the RTBA will not accept a form that has been altered in any way.

Your landlord may claim part of the bond. When any part of the bond is to be paid to the landlord, the form cannot be signed more than seven days before the end of the tenancy.

Remember:

Never sign a blank 'Bond Claim' form, or any other form, if you disagree with its details.



When the RTBA receives a correctly completed 'Bond Claim' form, it repays the bond directly into the nominated bank account.

If you have not provided valid bank account details, but have provided a forwarding address, the RTBA will send a cheque.

If you share a tenancy, the RTBA will not pay out part of the bond if a tenant leaves. Adjustments of bond contributions between outgoing and incoming tenants are a private matter between the tenants, but the RTBA must be told about any change of tenants during a tenancy on the RTBA 'Tenant Transfer' form.

Bonds from the Director of Housing (DoH)

If the DoH has provided your bond you cannot agree to the release of any of the bond to your landlord. The RTBA will pay out the bond to the DoH at the end of the tenancy, once it receives the completed 'Bond Claim' form.

If a 'Bond Claim' form is not lodged, the DoH will not know the tenancy has ended and the bond amount will remain registered as an outstanding debt against the tenant.

If there is any claim by the landlord on a bond provided by the DoH, the claim must be heard by the Victorian Civil and Administrative Tribunal (VCAT).

Can a landlord claim the bond?

Your landlord may make a claim on part or all of the bond for:

- damage caused by you or your visitors
- cleaning expenses
- abandonment of the premises
- you leaving your landlord to pay bills you should have paid
- loss of the landlord's goods
- unpaid rent.

The landlord must accept fair wear and tear.

If there is disagreement about the division of the bond, your landlord must apply to VCAT to have the matter resolved within 10 business days of you vacating the premises.

You may also apply to VCAT on the same grounds at any time.

Final meter readings

If you have separate meters for gas, water or electricity you should let the providers know in advance you will be moving out. If you do not do this, you may be charged for utilities in the next billing period.

Belongings left behind

If you leave any personal documents or goods behind, you should make arrangements to collect them. If these arrangements cannot be made, your landlord may request an inspection from Consumer Affairs Victoria. The inspector will advise the landlord what to do with the goods.

Your landlord cannot refuse to give back any of your belongings, even if you owe rent. If you suffer a loss because your landlord did not comply with the legislation in withholding your goods, you can apply to VCAT for compensation.

If your landlord has complied with the legislation and suffered a loss through the cost of storing and auctioning your goods, they can also apply to VCAT to be compensated.

Personal documents

Personal documents include:

- official documents
- photographs
- correspondence
- still and video cameras
- computer hard drives
- any other documents a person would reasonably be expected to keep.

When personal documents are left behind your landlord must:

- take reasonable care of the documents for at least 90 days
- let you reclaim the documents after you pay back any money the landlord had to spend to remove and store them.

If a landlord complies with their legal requirements and you do not claim the documents, your landlord can dispose of them. Your landlord can then apply to VCAT to be compensated for the cost of looking after and removing the documents.

Disposable goods

Your landlord can dispose of:

- perishable foods
- dangerous goods
- goods of no monetary value.

All other goods must be stored unless removal, notification, storage and auction costs would be more than auction proceeds.

Landlords and agents can assess whether, under the Residential Tenancies Act, the goods can be disposed of or must be stored. Alternatively, they can ask Consumer Affairs Victoria to inspect the goods and make a formal assessment.

Goods that must be stored

If you leave goods behind that are not allowed to be disposed of, your landlord must:

- store the goods for 28 days
- notify you within seven days that the goods can be collected
- let you reclaim the goods after you have paid the costs to cover any reasonable expenses incurred by them.

Contact Consumer Affairs Victoria for more information:

consumer.vic.gov.au
 consumer@justice.vic.gov.au
 1300 55 81 81
 113 Exhibition Street, Melbourne



Providing a forwarding address

It is a good idea to leave a forwarding address and phone number when leaving a tenancy. The new address and telephone number should be given to the landlord, VCAT (if an application has been made) and the Residential Tenancies Bond Authority (RTBA) on the 'Bond Claim' form.

You can also get your mail forwarded to your new address by completing a form at any Australia Post office. There may be a fee for this service.

PART 5: Solving tenancy problems



What you can do to solve a tenancy problem

- ✓ Try to solve the problem by communicating directly with your agent or landlord.
- ✓ Seek advice from Consumer Affairs Victoria.
- ✓ Contact a tenant advocacy service for information and support.
- ✓ Contact the Victorian Civil and Administrative Tribunal (VCAT).

Reaching an agreement

You and your landlord should attempt to solve any problems and reach an agreement. If you do, put your agreement in writing and have it signed by both parties.

If you or your landlord need to take the matter further, a notice must be issued. Notices are available from Consumer Affairs Victoria.

The amount of time required to comply with the notice depends on the type of problem.

Consumer Affairs Victoria

Consumer Affairs Victoria can give advice on a range of tenancy issues including:

- rental bonds
- lease agreements
- repairs and maintenance
- rent increases
- rights and obligations of landlords and tenants
- notice periods
- goods left behind.

We can also help solve tenancy disputes.

If your issue is identified as urgent, you will be put in contact with Consumer Affairs Victoria's Dispute Resolution and Reduction team.



Consumer Affairs Victoria can attempt to conciliate a dispute but cannot compel a landlord or agent to resolve an issue. The conciliation service is free.

You can also ask for one of Consumer Affairs Victoria's inspectors to do a rental assessment if you think your rent increase is too high or if there has been a reduction in services.

Note:

Consumer Affairs Victoria can take landlords, agents and tenants to the Magistrates' Court for not obeying certain obligations under the *Residential Tenancies Act 1997*. In such circumstances, the court may impose a fine.



Consumer Affairs Victoria also runs the Tenancy Advice and Advocacy Program. The program supports vulnerable or disadvantaged people with a private rental matter, in areas such as eviction, rent arrears, compensation claims and disputes that need to go to VCAT.



Call 1300 55 81 81 to find out more.

If Consumer Affairs Victoria cannot resolve your problem, you will be given information about other options.



Tenants Union of Victoria (TUV)

The TUV provides advice, assistance and advocacy for tenants of private and public residential properties.

The TUV can help you:

- fill in forms or agreements relating to your tenancy
- with advice on problems such as repairs and rent increases
- by negotiating and advocating on your behalf with your landlord or agent
- by assisting or representing you at the Victorian Civil and Administrative Tribunal (VCAT) > *see page 40 for full contact details.*

Housing for the Aged Action Group (HAAG)

HAAG provides free and confidential advice to older people who live in rental accommodation.

HAAG gives information on housing options for older people who need to find better, more affordable and secure accommodation.

People can also get advice and support if they are having difficulties such as:

- keeping up with their rent
- living in housing that is in poor condition and needs repair
- problems with their tenancy agreements > *see page 41 for full contact details.*

Victorian Civil and Administrative Tribunal (VCAT)

VCAT hears a range of disputes, including those between tenants and landlords.

Application forms are available from VCAT and Consumer Affairs Victoria. Once you have applied for your case to be heard, VCAT will inform you of the date, time and place of the hearing. Hearings take place in the city, suburbs and country Victoria.

It is important to be prepared for a hearing. The VCAT member will hear and consider all the evidence presented from both sides. This might include listening to evidence from witnesses or looking at photographs and other documents brought to the hearing by you or the other party.

VCAT's decisions are usually made on the day of the hearing; they must be obeyed by both parties in the same way as a court order.

VCAT will also consider urgent hearings in cases of extreme hardship. You must include a letter outlining the reasons why a matter is urgent when you lodge your application.

Interpreters at VCAT

VCAT can provide interpreters for the parties directly involved in a dispute. If you need an interpreter, VCAT must be told at the time of making the application. VCAT will then arrange for an interpreter free of charge. Friends or relatives are generally not allowed to interpret for a tenant or landlord > *see page 40 for full contact details.*



Full contact details for all of these, and other useful organisations, are on the following pages.



Useful contacts

Residential Tenancies Bond Authority (RTBA)

The RTBA holds all residential tenancy bonds as a trustee for tenants and landlords. The RTBA can only repay bonds if both the tenant and landlord agree, or as directed by the Victorian Civil and Administrative Tribunal (VCAT) or a court.

Locked Bag 007
Wendouree Victoria 3355

Phone 1300 13 71 64 (local call charge)

Fax (03) 8684 6299

rtba@justice.vic.gov.au

rtba.vic.gov.au

Tenants Union of Victoria (TUV)

The TUV provides information, advice and advocacy services for Victorian tenants.

55 Johnston Street
Fitzroy Victoria 3065

PO Box 234
Fitzroy Victoria 3065

Phone (03) 9416 2577

Fax (03) 9416 0513

tuv.org.au

Victorian Civil and Administrative Tribunal (VCAT)

VCAT operates like a court but is not as formal, and deals with a wide range of issues, including disputes arising from the Residential Tenancies Act.

55 King Street
Melbourne Victoria 3000

GPO Box 5408CC
Melbourne Victoria 3001

Phone (03) 9628 9800

1800 13 30 55 (country callers)

Fax (03) 9628 9822

vcat-rt@justice.vic.gov.au

vcat.vic.gov.au

Real Estate Institute of Victoria (REIV)

The REIV is the peak industry association representing Victorian estate agents.

Phone (03) 9205 6666

Fax (03) 9205 6699

reiv@reiv.com.au

reiv.com.au

Office of Housing

The Office of Housing is a division of the Department of Human Services. It provides housing services including the Bond Loan Scheme and public rental housing to eligible Victorian residents. For further information contact your closest Housing Office (listed in the White Pages A-K under Human Services, Housing Services).

Phone 1300 650 172 (local call charge)

Housing@dhs.vic.gov.au

housing.vic.gov.au

TTY 13 36 77 then ask for 1300 650 172

Housing for the Aged Action Group (HAAG)

HAAG offers information, advocacy and access to accommodation services for older renters.

2nd Floor Ross House
247-251 Flinders Lane
Melbourne Victoria 3000

Phone (03) 9654 7389
1800 637 389 (country callers)

Fax (03) 9654 3407

haag@oldertenants.org.au

www.oldertenants.org.au

Victorian Equal Opportunity and Human Rights Commission (VEOHRC)

VEOHRC provides information about equal opportunity rights and responsibilities and helps people resolve complaints of illegal discrimination or harassment through its impartial, confidential and free conciliation service.

Level 3, 204 Lygon Street
Carlton Victoria 3053

Phone 1300 292 153

Fax 1300 891 858

enquiries@veohrc.vic.gov.au

humanrightscommission.vic.gov.au

TTY 1300 289 621

→ Renting a home

Notes

Notes

Consumer Affairs Victoria

Victorian Consumer & Business Centre
113 Exhibition Street
Melbourne 3000

consumer.vic.gov.au
consumer@justice.vic.gov.au

1300 55 81 81 (local call charge)



Services from Consumer Affairs Victoria are also available in Ballarat, Bendigo, Dandenong, Box Hill, Broadmeadows, Geelong, Mildura, Morwell, Wangaratta and Warrnambool. Our mobile service regularly visits rural communities.

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TIS Translating and Interpreting Service **131 450**
TTY Textphone or modem users only, ring the National Relay Service (NRS) on **133 677**, then quote **1300 55 81 81**.
Callers who use Speech to Speech Relay dial **1300 555 727**, then quote **1300 55 81 81**.