



# Renters' rights

An overview of renters' rights and landlords' responsibilities

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# Acknowledgement of Country

The offices of Tenants Victoria are on Wurundjeri Woi Wurrung Country. We respect the Wurundjeri people's ongoing connection to Country, culture, and community. We also acknowledge the connection of all First Nations peoples on whose Country Victoria is today situated. We recognise that sovereignty was never ceded and pay our respects to Elders past and present.



# Disclaimer

These slides are designed for the purpose of community legal education and are not a substitute for legal advice.

If you need legal assistance or advice, phone Tenants Victoria on (03) 9411 1444.



# Topics



→ About your legal rights

→ Resolving disputes

→ Victorian Civil and Administrative Tribunal

→ Rights and responsibilities

## Topics (cont.)



→ Repairs

→ Rent increases

→ Ending your rental agreement

→ Bonds

# About Tenants Victoria



- Peak body for the state's almost 2 million renters.
- Formed in 1974 when renters living in an apartment block in Parkville came together to challenge their landlord about repairs and rising rents.
- Tenants Victoria works to empower renters by offering legal help, renter rights education and training.

**A safe, secure and affordable home for Victorian renters in a fair housing system.**

# Common terms



**Renter** (also called a **tenant**) – the person who pays rent. If there is more than one renter, they are jointly responsible for the property and paying the rent.

**Landlord** (officially called a **rental provider**) – is responsible for ensuring the house is in good repair and should not interfere with your enjoyment of the property if you follow the law. They can never evict you until you choose to leave, or they get permission from VCAT.

**Rental agreement** (often called a **lease**) – this states the amount of rent at the start of the term of the agreement and sets out some rights and responsibilities for the renter and landlord. An agreement which has terms that are inconsistent with the law cannot be enforced, and harsh terms can be challenged at VCAT. A rental agreement can be written or verbal. If the agreement is verbal you still have rights.

# Common terms (cont.)



**Real estate agent** – A real estate agent represents the landlord. They are **not** a neutral party. They only represent the landlord’s interests. However, they must follow the law.

**Consumer Affairs Victoria** – This is the regulator of rental laws. It is neutral and responsible for enforcing the law. It can provide information. Renters can ask for assistance with repair reports and assessment of whether a rent rise is reasonable.

**Victorian Civil and Administrative Tribunal** – VCAT hears most rental disputes. The official who hears the disputes and makes the decisions is called the Member. Everyone must follow the Member’s decision.



→ About your legal rights

# What is a legal right?



A legal right is a way to force someone else to do or stop doing something – even if they don't want to do it.

You need to use your legal rights if things aren't fair according to the law.

The laws for renting a home are found in:

- [Residential Tenancies Act 1997](#)
- [Residential Regulations 2021](#)

# How to use your rights



## Step 1

- Work out what your rights are and communicate them to the persons you are having the dispute with.

## Step 2

- Try to negotiate an agreed outcome.
- If you reach an agreement, get it in writing and both sides keep a copy of the agreement.

## Step 3

- If you can't reach an agreement, you need to go to a place to use your rights.

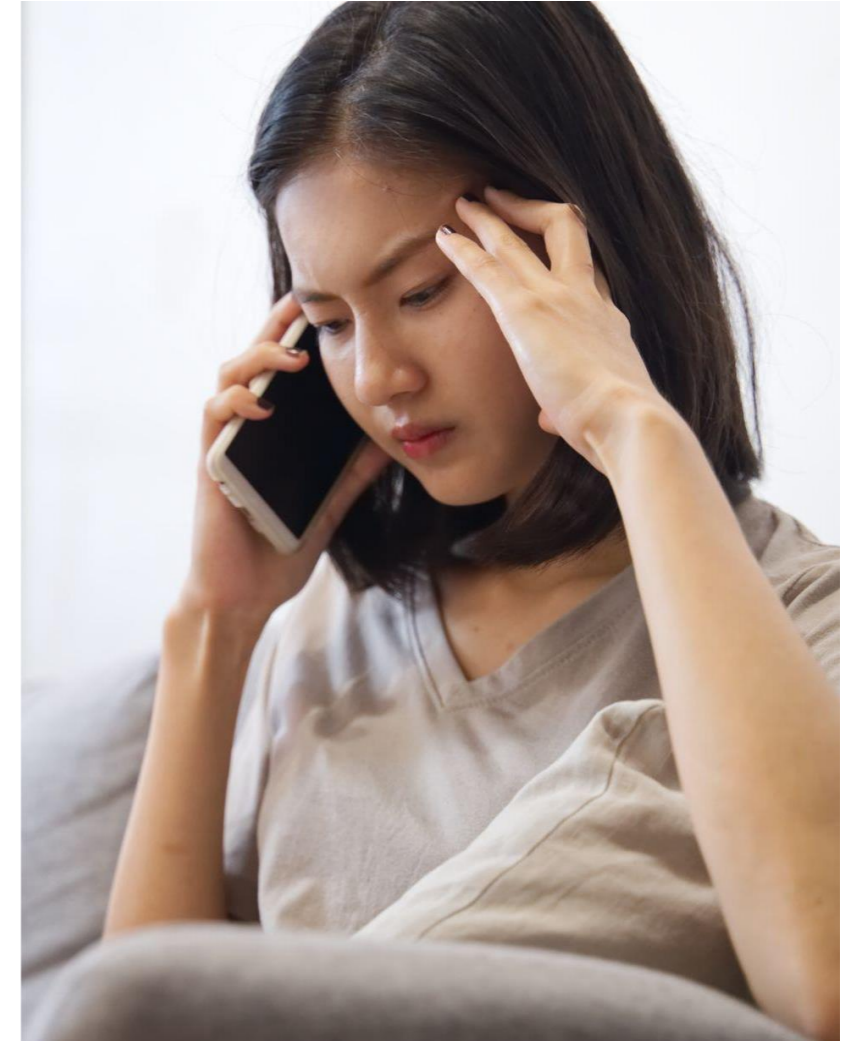
In most cases this will be the Victorian Civil and Administrative Tribunal (VCAT).

→ Resolving disputes

# What causes disputes?



- Not understanding the law or the law not being clear
- Not communicating clearly
- Not agreeing on the facts
- Greed or not taking responsibility
- Not being respectful or considerate of the other people's position
- Financial difficulties
- Not being able to see any alternatives or constructive solutions to the issue



# Practical tips



- Always take photos whenever you move in and move out of a property.
- Make sure your photos are backed up in ‘the cloud’, such as iCloud or Google Photos.
- When you are being ignored use phrases such as:
  - ‘We would like to resolve this amicably, but if I don’t hear from you by [time], I will apply to VCAT.’
- Always try to be the good person in the dispute – don’t refuse to pay your rent.
  - There are other options such as the Rent Special Account, which holds the money until the issue is sorted.
- **Get advice early!**

→ Victorian Civil and Administrative Tribunal (VCAT)

# What is VCAT?



VCAT hears disputes between landlords and renters. It is not a court, but it can make decisions that must be followed by landlords and renters. It is intended to be informal and cheap, and to resolve disputes quickly and fairly.

You can use your rental rights at VCAT, which can make legally binding decision called 'orders', or agreements between the parties, called 'consent orders'.

## Examples:

- Orders making the landlord do something – like repairs
- Orders preventing harassment by a landlord, sometimes called a restraining order
- Orders to determine if a debt exists
- Possession orders, where the landlord takes back possession of a rented property



# How much does it cost to go to VCAT?



## Costs

- It costs \$72 to apply or free if you get a fee waiver
- Includes holding a healthcare card, or experiencing financial hardship or family violence
- Regardless whether you win or lose or reach an agreement, there are generally no other costs – other than the issues in dispute (if any).

## Hearing times

- Most hearings are very quick - 15-60 minutes
- Some types of hearings can take place quickly – in 2-5 days
- Other hearings may take 3 to 4 weeks
- There is currently a delay in some matters due a backlog of matters at VCAT

# Applying to VCAT

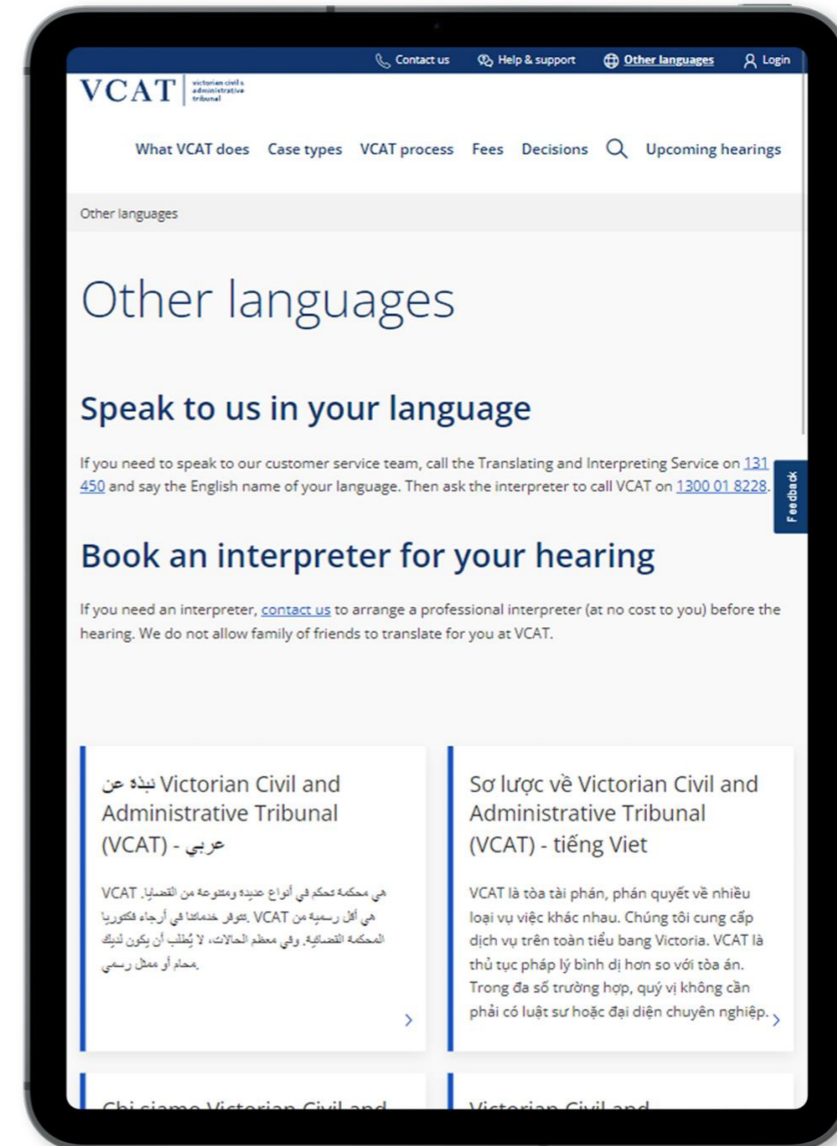


For information about applying to VCAT  
see the website:

[www.vcat.vic.gov.au](http://www.vcat.vic.gov.au)

Other languages:

[www.vcat.vic.gov.au/other-languages](http://www.vcat.vic.gov.au/other-languages)

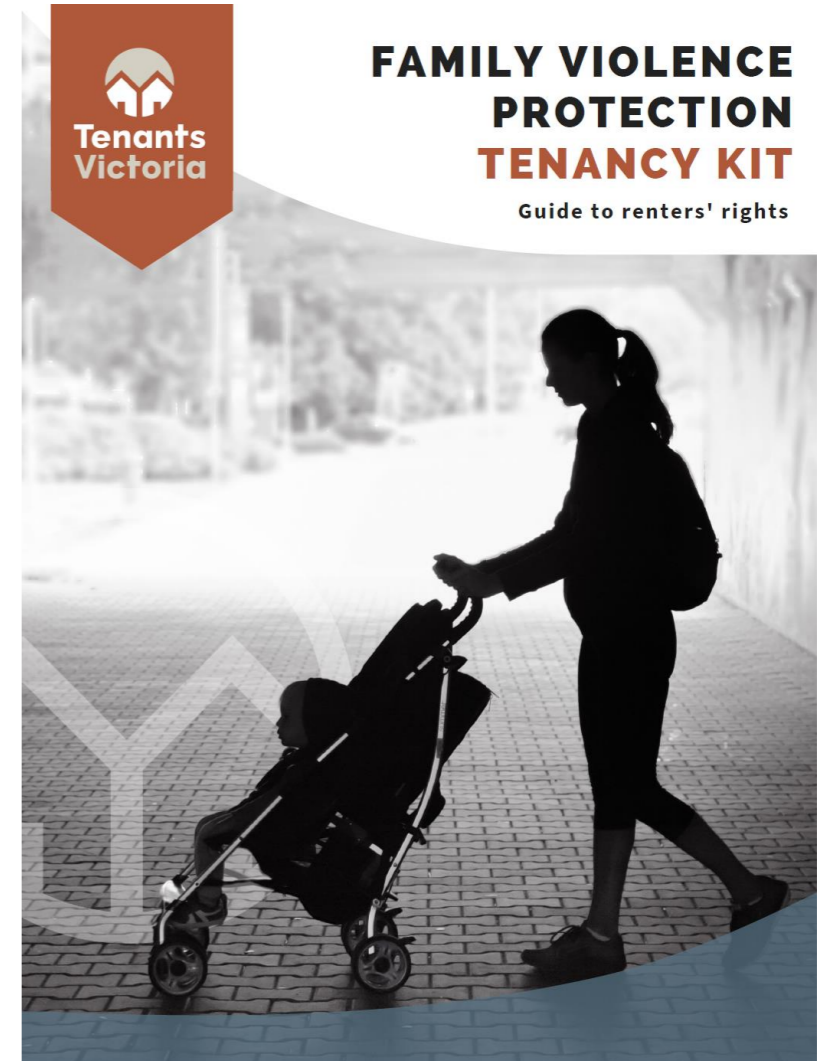


# Family violence



There are protections for people affected by family violence in rental laws. Tenants Victoria's Family Violence Protection Kit outlines important processes:

- **Staying** – having a new lease put in your name, regardless if you're on the lease or not
- **Going** – being removed from the lease so you don't continue to be liable
- No intervention order is required, although recommended
- VCAT must hear an application to create or terminate a lease in **3 days**
- Many people leave the premises and do not get removed from the lease. This does not stop them from being liable for rent or other costs. To prevent unnecessary debts they should apply to VCAT to be removed.



→ Rights and responsibilities

# Renters' rights



The renter is entitled to 'quiet enjoyment' of the premises. The rental provider may only enter the premises in accordance with the Act.

**Quiet enjoyment** is your ability to use the premises as a home and not be disturbed or harassed by the landlord or be disturbed by other issues that are within the control of the landlord.



# Renters' responsibilities include these things:



Renters' responsibilities include these things:

- Must not use the premises for an illegal purpose.
- Must not cause a nuisance or interfere with the reasonable peace, comfort or privacy of neighbours.
- Must avoid damaging the property and any common areas. Common areas include hallways, driveways, gardens and stairwells. Where damage occurs, the renter must notify the landlord in writing.
- Must keep the property reasonably clean.
- Must allow entry to the property if the landlord or agent has given the correct notice.

# Renters' rights – entry and privacy



A landlord can only enter the rented premises if you give permission, or they follow the correct procedure.

- They must give written notice by hand, post or email, if you have agreed to accept email notices.
- The notice must set out the reason for entry and provide the required amount of time before entering your home.



# Landlords' responsibilities



- Must make certain disclosures about the property before you sign the contract
- Must give receipts when rent is paid
- Must ensure the premises are vacant and reasonably clean
- Must send you a completed condition report
- Must lodge your bond within 10 days of receiving it
- At the end of the lease must allow you a reasonable opportunity to attend their inspection for the exit condition report
- Cannot unreasonably refuse certain modifications to the home
- Must not unreasonably refuse allowing a renter to transfer the lease to someone else



# Landlords' responsibilities (cont.)



Must maintain the premises in **good repair** and in **a fit condition for occupation**.

- The landlord must do repairs – even if the house is old, the damage was there when the renter moved in, or they are paying a low rent.
- Repairs must be done by a ‘suitably qualified person’.



# Landlords' responsibilities (cont.)



## Minimum standards

Landlords must ensure that the rented property complies with the rental minimum standards under the law, and is vacant and reasonably clean when the renter moves in.

Minimum standards set out what must be required in all leases that commenced on or after 29 March 2021.



# Landlords' responsibilities (cont.)



## Minimum standards (cont.)

Minimum standards include these things.

For a full list see Tenants Victoria's website page [Minimum standards](#).

- A kitchen and working stovetop. If there's an oven it must work properly
- A bathroom with a toilet, washbasin, and a shower or bath
- Kitchen, bathroom and laundry (if there is one) must have a reasonable supply of hot and cold water
- A fixed heater in the living room
- Windows must work and have latches
- Bedrooms and lounges must have curtains or blinds
- The house must be free of mould

→ Repairs



# Repairs



There are two types of repairs:

- **Urgent**
- **Non-urgent** - anything that is not an urgent repair

These 2 types of repairs have different **processes**.

You should always continue to pay your rent.

If you want to divert the money, you can apply to pay your rent into the Rent Special Account, which is an account held by Consumer Affairs Victoria.



# When to use repair processes



Both urgent and non-urgent repairs processes can be used to force the rental provider to get the repairs done.

They apply in the same way to both private housing, public housing and community housing.

You can start these processes from as soon as the issue happens.

To get things done you often need to assert your rights.

For information on both types of repairs see Tenants Victoria's website page [Repairs and maintenance](#).



# Urgent repairs



Urgent repairs are:

- A burst water service
- A blocked or broken toilet (or part of the 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 for water, hot water, cooking, heating or doing laundry
- Breakdown in utilities provided - gas, electricity or water

# Urgent repairs (cont.)



- A failure or breakdown in any appliance or fitting supplied by the landlord that will cause a lot of water to be wasted
- Broken air conditioner
- Broken safety-related devices such as a smoke alarm or pool fence
- A serious fault in a lift or staircase
- Any fault or damage that makes rented premises unsafe or insecure, including:
  - a pest infestation
  - the presence of mould or damp caused by or related to the building structure
- Any failure to meet rental [minimum standards](#)



# How to get urgent repairs done



## Step 1

Tell the landlord or agent about any damage, break down or repair as soon as possible, and confirm this in writing. Keep evidence of all your efforts to contact them.

## Step 2

- Access the application form on the VCAT website. Go to <https://www.vcat.vic.gov.au/documents/forms/application-general-application-residential-tenancies-list>
- Apply online or download the form.
- Fill it in. At question 20 put in 'Section 73 – Urgent Repairs'.

# How to get urgent repairs done (cont.)



- If you download the form, after you've filled it in make 3 copies. Keep one for yourself and send the other copies, along with copies of your evidence, to:
  - The landlord or estate agent
  - VCAT, along with the application fee or fee waiver form
- You should get a notice of hearing, telling you the date, time and location of the hearing.
- VCAT should hear your case within 2 business days once they have received your application. Take a copy of your application and evidence to the hearing.

# Making an urgent repair application to VCAT



## Example of claim form

### PART 9: CLAIM DETAILS - WHAT DO YOU WANT VCAT TO DO?

#### 20. What orders do you want VCAT to make?

You need to tell us the relevant section number of the *Residential Tenancies Act 1997* that relates to your claim, if you can, and what orders you want VCAT to make.

You may also have to provide specific information or documents to support your application. If you do not provide information or documents that VCAT needs, your application may be delayed.

To see a list of common disputes we hear and their section numbers, go to [www.vcat.vic.gov.au/rentingnotice](http://www.vcat.vic.gov.au/rentingnotice).

*Section 73 – urgent repairs*

#### 21. Provide more details about your claim.

You must give complete details about your claim, including:

- how you have calculated any amounts you are asking for
- why you are asking for the above orders.

This will help the respondent understand why you have made this application. If you need more space, you can attach a document setting out the details of the claim.

*Since 1 June 2021 the gas heater in the lounge room has been broken, not staying lit for more than 10 minutes without going out. I have asked for this to be fixed several times and it still has not been done. I reported the problem on 1 June 2021 by email. Then I called to follow up on 4 June 2021 and again on 10 June 2021. I even sent a video showing that the heater isn't working.*

*I would like VCAT to make an order that the heater be fixed immediately.*

*Attachments:*

*Copies of emails sent to the agent and screen shot of calls made to the agent*



For more information see our pages  
about repairs on our website:

[Repairs and maintenance](#)

[Landlord breaches and other notices](#)

[Applying to VCAT](#)

→ Rent increases



# Rent increases



- The landlord must give the renter at least 60 days' written notice of a proposed rent increase.
- Rent cannot be increased more than once every 12 months (there are some exceptions for older leases which is every 6 months).

If you get a notice of rent increase, be aware you can challenge it if you think it is excessive.

Consumer Affairs Victoria can provide a free assessment of whether the rent is excessive.

For more information see Tenants Victoria's website page [Rent Increases](#).

# Options if you cannot afford a rent increase



## Negotiate

Negotiate with the rental provider and be clear about your financial limits.

A good landlord will not want to lose good renters over a few dollars.

## Seek financial counselling

Seek financial counselling to help identify:

- If the rent increase is financially viable for you on your current budget
- If you are eligible for any supports or other entitlements such as government concessions on power bills

# Options if you cannot afford a rent increase (cont.)



## Avoid rent arrears

It is better to relocate if you are likely to incur rent arrears you cannot catch up on. If your lease ends because of rent arrears, you may be listed on a tenancy database.

You do not have to immediately vacate because of rent arrears. You can get a payment plan.

Try to end an agreement without rent arrears where possible.

It is however more important that you have someone safe to go to.



→ Ending your rental agreement

# How a lease ends



All leases must be ended in a manner set out in the law.

Either the renter returns the keys:

- Ordinarily at the end of a fixed-term lease the renter must give 28 days written notice specifying a date that they are going to vacate. This can be a date on or any time after the fixed term lease has ended.
- At any time during the fixed term, but the renter may be liable for 'lease breaking' costs.

***Or:***

- The landlord has given the renter a 'notice to vacate'. If the renter does not leave the landlord must obtain a 'possession order' from VCAT to evict the renter. Only the police can carry out an eviction.

**Important:** It is illegal and a serious offence for a landlord to try to evict, or attempt to evict, someone personally or by any means other than set out in Victoria's Residential Tenancies Act (section [91P](#))

# Notices to vacate



A notice to vacate where the renter is at fault can be given at any time.

Notices to vacate where the renter is not at fault can only specify a date on or after the last day of their fixed term lease.

Renters must be given the correct minimum notice period depending on the reason for the notice.

VCAT can only end a lease if it considers it 'reasonable and proportionate' to do so.

**Important:** In all cases, the renter does not have to vacate by the termination date in the notice to vacate.

# Notices to vacate (cont.)



## **When the renter is at fault, minimum notice periods in a notice to vacate include:**

Immediate notices:

- Causing a danger
- Causing serious damage

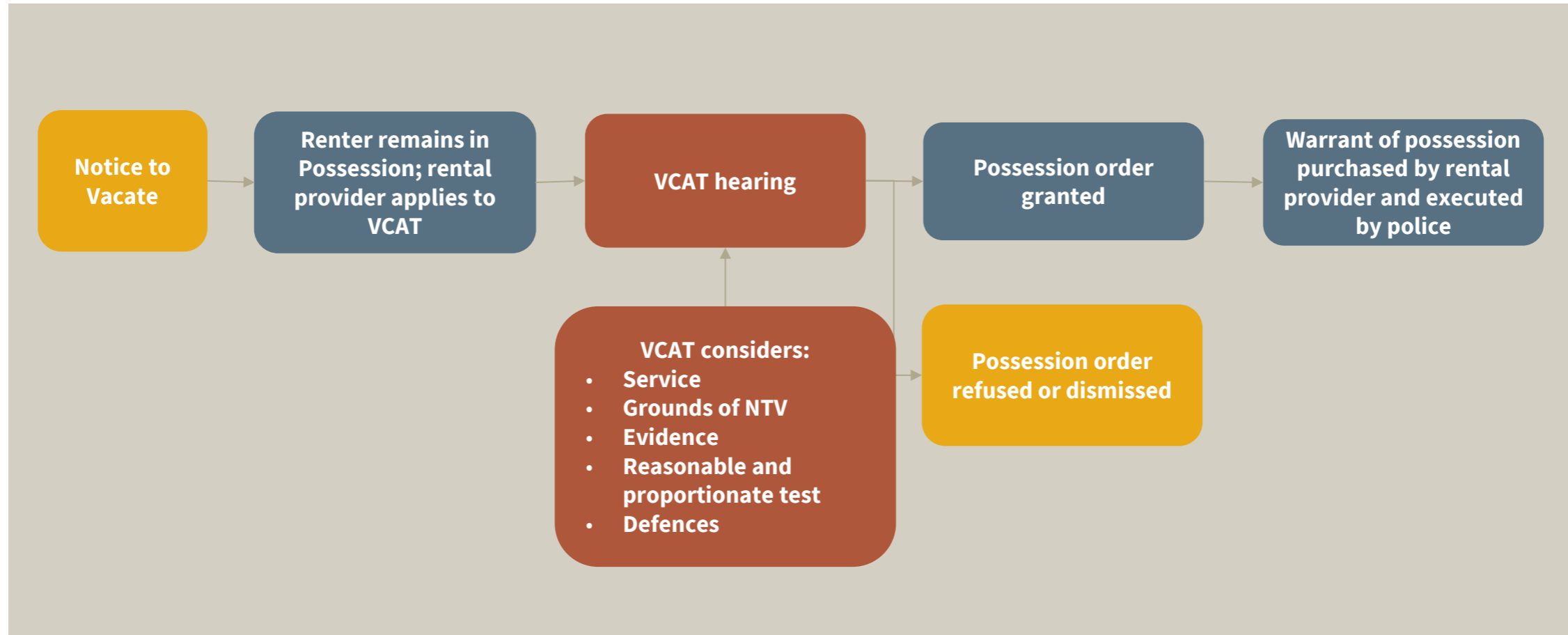
### **14-day notices:**

- Rent arrears
- Assign or subletting without consent
- Threats or intimidation

## **When the renter is not at fault, minimum notice periods in a notice to vacate include 60-day notices for reasons such as:**

- Sale
- Renovation or repairs
- Landlord to move back in

# Evictions



# Example orders - payment plan

**ORDER**

Ref No: 2021/xxxx/xx

**VICTORIAN CIVIL AND ADMINISTRATIVE TRIBUNAL  
RESIDENTIAL TENANCIES LIST  
REGISTER OF PROCEEDINGS**

APPLICANT(S): Donald Dobson  
Rental Provider

RESPONDENT(S): Sharon Kennedy  
Renter

RENT PREMISES: 42 Wallaby Way, Croydon 3136

Application under the *Residential Tenancies Act 1997* –  
*Possession Order – Rent Arrears* - Sections 91ZM, 322

**VCAT finds:**

1. The rental provider gave the renter not less than 14 days Notice to vacate when the renter owed at least 14 days rent.
2. The renter had not paid all the unpaid rent by 1 May 2021.
3. This is the first Notice to Vacate in the 12 months period between (2 February 2020 – 1 February 2022).
4. The rent, which is \$1600 per calendar month (\$52.60) is paid to 12 March 2021 with \$6 on account and the renter owed today is \$2400.
5. The Tribunal is satisfied that arrangements can be made to avoid financial loss to the rental provider.
6. The bond is \$1600.00

**The Tribunal orders that:**

1. The renter will pay the rental provider the following sum(s) towards rent owed on or before the dates specified:  
  
2 July 2021                      \$500.00 plus regular rent of \$1600 per calendar month.
2. Thereafter, the renter will pay \$1800 per calendar month (being the ordinary rent of \$1600, plus an addition \$200) on the 2<sup>nd</sup> of each calendar month until such time that the rent is paid in advance.
3. The application is adjourned to a date no later than 1 June 2022 to be heard by any Member of the Victorian Civil and Administrative Tribunal. The application may be renewed by the rental provider giving the principal registrar notice in writing but if the application is not renewed on or before this date it shall be considered withdrawn.

  
J Dorian, Member



15 June 2021

BC -15/06/2021 3:02pm

# Example orders - possession order

ORDER

Ref No: 2021/xxxxxx

**VICTORIAN CIVIL AND ADMINISTRATIVE TRIBUNAL  
RESIDENTIAL TENANCIES LIST  
REGISTER OF PROCEEDINGS**

APPLICANT(S): Donald Dobson  
Rental Provider

RESPONDENT(S): Sharon Kennedy  
Renter

RENT PREMISES: 42 Wallaby Way, Croydon 3136

Application under the *Residential Tenancies Act 1997* –  
*Possession Order – Rent Arrears* - Sections 91ZM, 322

**VCAT finds:**

1. The rental provider applied for a possession order and has given the renter not less than 14 days' notice to vacate when the tenant owed at least 14 days' rent.
2. The renter had not paid all the unpaid rent by 1 May 2021.
3. This is the first Notice to Vacate in the 12 months period between (2 February 2020 – 1 February 2022).
4. The rented, which is \$1800 per calendar month (\$52.60) is paid to 12 March 2021 with \$8 on account and the renter owes today is \$2400.
5. The landlord has proven the grounds in the notice to vacate.
6. No satisfactory arrangements have been or can be made to avoid financial loss to the rental provider.
7. Taking into account all the circumstances and impact upon the renter, the rental provider and others, it is reasonable and proportionate to grant a possession order as set out below.
8. The bond is \$1200.00

**The Tribunal orders that:**

1. The tenant must vacate the rented premises by 15 June 2021.
2. The principal registrar, at the request of the person who obtained the possession order and on payment of the prescribed fee, shall issue a warrant of possession to be executed within 14 days after the date of issue. (Any request must be made no later than 15 December 2021).
3. The issue of a warrant of possession is postponed for 30 days from the date of this order.

**Warning to tenant:** If you fail to vacate the rented premises by the date stated in this order you may be forcibly vacated by a member of the police force or an authorized person carrying out a warrant of possession.

  
J Dorian, Member



15 June 2021

BC -15/06/2021 3:02pm

→ Bonds





# Bonds



- A bond is a specific amount of money you pay at the start of your tenancy.
- It is a security in case there is a dispute at the end of your tenancy over things like damage, cleaning or unpaid rent.
- It must be lodged with the Residential Tenancies Bond Authority (RTBA) within 10 business days.
- You should get a receipt from the RTBA within 7 days of lodgement.
- Failure to lodge a bond with the RTBA is illegal and an offence.
- The bond money is your money!
- All bond claims and applications are **free** for renters!

# Bond tips when you move in



- You should only pay a bond after you have signed a rental agreement and been given these 2 documents:
  - A condition report completed and signed by the landlord or agent
  - A bond lodgement form signed by the landlord or agent
- You will also need to sign the bond lodgement form. Never sign a blank bond lodgement or claim form. This is because the landlord could write a different amount for the bond.
- Once everyone has signed the landlord needs to give you a copy of the bond lodgement form.
- The bond must be lodged with the RTBA. This is like the bond being held in a bank. It can only be withdrawn in specific circumstances – either with the consent of the renter or because of orders from VCAT.

# Bond tips when you move in (cont.)



## Condition report

- Fill in the condition report in detail noting any damage when you move in. Take lots of photos.
- It is OK if you and the landlord do not agree about the condition of the property.

# Getting your bond back when moving out



## Exit condition report

You must be given a reasonable opportunity to attend the final inspection with the landlord or agent while they complete an exit condition report. This is to make sure any issues you have are included. It is a good opportunity to take your own photos of any issues.

If there is disagreement about the condition of the property VCAT might need to resolve that.

## Renters can claim directly to RTBA

You don't need to wait for the landlord, or agent, to put in a claim to the RTBA for your bond, and you don't need their agreement either.

# Getting your bond back when moving out (cont.)



## The bond is your money

- The bond money is the renter's money.
- The landlord cannot just take the bond. If they want any part of the bond, they must apply to VCAT, then prove their claim.
- The bond can only be released with the renter's permission or by an order of VCAT. The landlord **does not have, or control,** the bond money.

# Getting your bond back when moving out (cont.)



## Bond claims to the RTBA

There are 4 different bond claims that can be made to the Residential Tenancies Bond Authority:

1. You can make a claim with the RTBA to have your entire bond paid back to you, without the landlord's consent.
2. You can make a claim with the RTBA for part of your bond to be paid back to you and part of the bond to be paid to the landlord, without the landlord's consent.
3. You and the landlord can make a joint claim to the RTBA if you both agree on how the bond should be repaid, including if the entire bond is to be repaid to you or if you agree that some of your bond will be paid to the landlord.
4. The landlord can make a claim to the RTBA, without your consent, but only if the claim says the entire bond is to be repaid to you.

# Defending a claim for compensation



If a renter is defending a landlord's claim for compensation, one or more of these defences may apply:

- 'No liability' – the renter is not responsible for the condition of the property. There was damage when the renter moved in. Refer to the condition report for evidence.
- The damage was caused by a natural event or another person. Report to police damage from a natural event or vandalism, for example. Send the report to the landlord or agent.
- Lack of cleanliness when the renter moved in – you left it as you found it.
- Fair wear and tear – for example, if the carpet has become worn over time by people walking on it, this is fair wear and tear and not damage. See the Director of Consumer Affairs [Guideline 3 - Damage and fair wear and tear](#).
- Depreciation, which means the older something gets, the less it is worth. The landlord cannot claim the full cost of replacing something that was not new when it was damaged. Always send the landlord a written request, asking for evidence of purchase and the age of items.

## **Renter support line**

**(03) 9416 2577**

Monday to Friday  
9.30 am – 12.30 pm  
and 2.30 pm – 4.30 pm  
Closed public holidays

Calls are answered by lawyers,  
advocates and intake workers with  
specialist knowledge of Victorian  
rental laws.

**The approximate waiting time is  
over 30 minutes.**

## **Community worker line**

**(03) 9411 1444**

Monday to Friday  
9.00 am – 5.00 pm  
Closed public holidays

Free advice or support for  
workers at not-for-profit  
organisations assisting people  
who rent in Victoria.

Email: [admin@tenantsvic.org.au](mailto:admin@tenantsvic.org.au)  
with the subject line  
'Organisation enquiry'



Specialist community legal centre on tenancy matters  
Level 2, 255 Bourke Street, Melbourne Victoria 3000  
[admin@tenantsvic.org.au](mailto:admin@tenantsvic.org.au) | [tenantsvic.org.au](http://tenantsvic.org.au)