

TENANCY RIGHTS & RESPONSIBILITIES

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Tenants Victoria Services

Tenants or residents can seek free advice from us
by calling our advice line on **9416 2577**

9am - 4pm Monday to Friday

Contact can also be made via our website :

www.tuv.org.au



Tenants Victoria - Fact Sheets

<http://www.tuv.org.au/publications/fact+sheets>

They come in 12
different languages:

Amharic, Arabic,
Chinese, Croatian,
Persian, Polish, Russian,
Serbian, Somali,
Spanish, Turkish,
Vietnamese

Avoiding eviction for rent arrears

If you do not pay your rent on the day that it is due, you will be 'in arrears'. If you are 14 days in arrears, your landlord can give you a 14-day Notice to Vacate. However, they can only give you the notice for rent that is actually overdue. They cannot give you a Notice to Vacate for not paying your rent in advance.

If you are in arrears, and you are unable to make a payment, contact your landlord or real estate agent as soon as possible and tell them when you will be paying. If you can't pay the arrears in one payment, you should offer to pay them off over time (eg an extra \$20 per week). Don't offer to pay more than you can afford. Make the offer in writing and keep a copy—even if the landlord or agent don't accept your offer, you can use your letter as evidence that you tried to resolve the problem.

It is illegal for your landlord or agent to personally attempt to evict you. Only the police can evict you and even then, they must have a valid Possession Order and a Warrant of Possession from the Victorian Civil and Administrative Tribunal. (See the *Eviction and Complaints about landlords and real estate agents* fact sheets for more information.)

If you need help to make a payment plan you can either talk to a financial counsellor over the phone by calling Money Help on 1800 149 689, or if you want a face-to-face appointment you can phone Consumer Affairs Victoria on 1300 55 81 81 for the number of the nearest financial counsellor.

If the landlord or agent rejects your offer or you are unable to make any payments, the landlord must follow one of the legal procedures below if they want to evict you: the standard procedure below or the alternative procedure overleaf.

Standard eviction procedure Step 1. 14-day Notice to Vacate

As mentioned, if you are 14 days or more in rent arrears, the landlord can give you a 14-day Notice to Vacate. This notice must be hand delivered or sent to you by registered mail.

If you are not 14 days in rent arrears at the time of receiving the notice, it is invalid.

If you receive a Notice to Vacate, you do not have to move out of the property if you don't want to. The notice is just the first step in taking the matter to the Victorian Civil and Administrative Tribunal. It is not too late to try and negotiate a payment plan with the landlord or agent.

If you want the Tenants Union to help you prepare for a Tribunal hearing, seek our advice as soon as you receive the Notice to Vacate.

Step 2. Application & Notice of Hearing

The landlord must give you a Notice to Vacate before they apply to the Victorian Civil and Administrative Tribunal for a Possession Order. Otherwise their application is invalid and should be dismissed. You should receive a copy of the landlord's application to the Tribunal.

Once they have received the landlord's application, the Tribunal will set a hearing date. They will send you a Notice of Hearing, which tells you the time, date and place of the hearing. If you want to avoid being evicted, you must go to the hearing, even if you have paid the rent arrears or entered into a payment agreement with your landlord or agent. If you don't go to the hearing, the Tribunal may grant the landlord a Possession Order.

If your landlord or agent tell you that you do not need to go to the hearing because you have paid off the rent arrears or for any other reason, it is very important that you phone the Tribunal on 9628 9800 to ask if the application has been withdrawn. If it hasn't, then you must go to the hearing if you want to avoid eviction.

If you cannot go to the hearing, you will need to apply for an adjournment at least 2 days before the hearing date. See the *Victorian Civil and Administrative Tribunal* fact sheet or contact the Tenants Union for advice.

continued overleaf...



Tenants Union of Victoria Ltd ACN 081 348 227 October 2010 www.tuv.org.au



Flow Charts

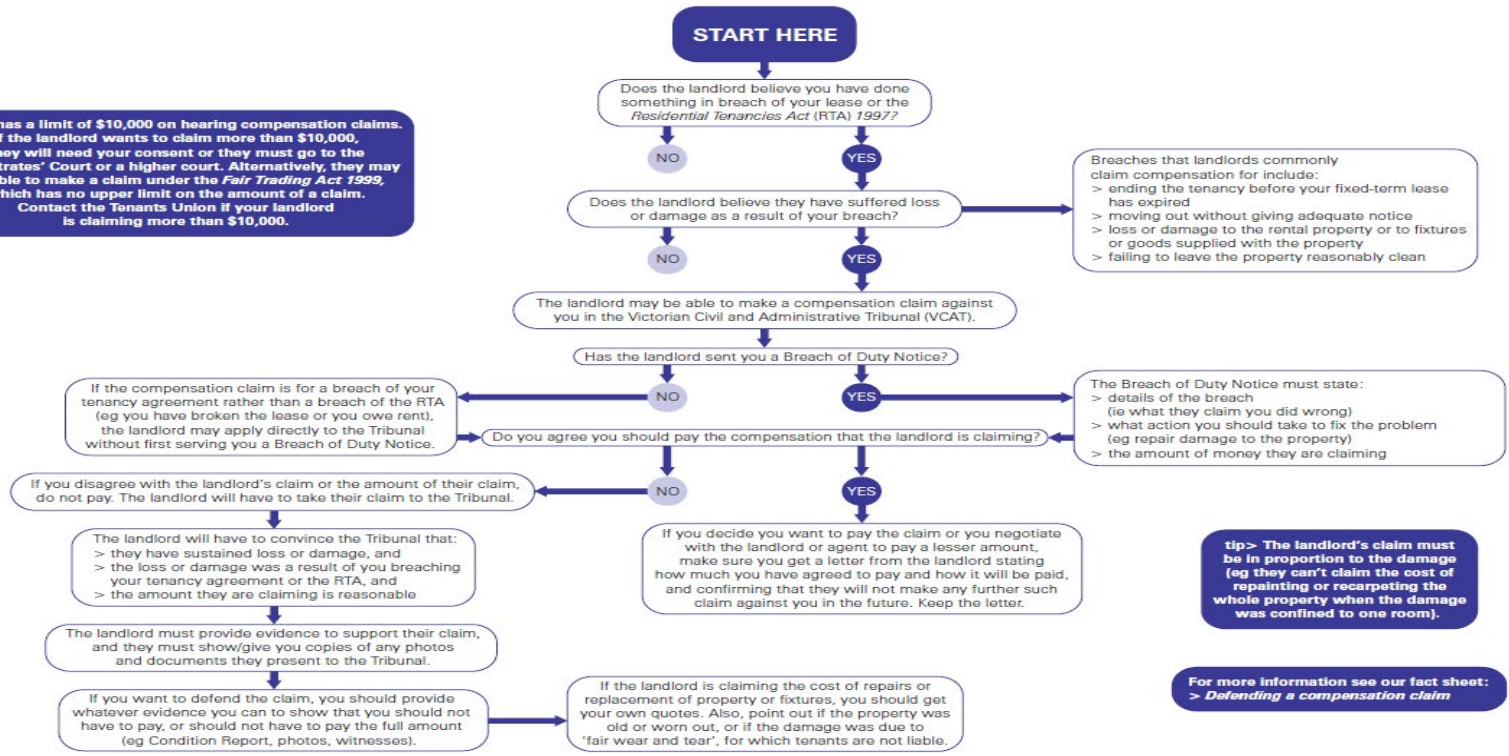
<http://www.tuv.org.au/publications/step-by-step+guides>



your step-by-step guide to defending a compensation claim

June 2009

VCAT has a limit of \$10,000 on hearing compensation claims. If the landlord wants to claim more than \$10,000, they will need your consent or they must go to the Magistrates' Court or a higher court. Alternatively, they may be able to make a claim under the Fair Trading Act 1999, which has no upper limit on the amount of a claim. Contact the Tenants Union if your landlord is claiming more than \$10,000.



tip> The landlord's claim must be in proportion to the damage (eg they can't claim the cost of repainting or recarpeting the whole property when the damage was confined to one room).

**For more information see our fact sheet:
> Defending a compensation claim**



Who is a Tenant

- A **tenant** is someone who **rents** a place to **live**
- As long as the property is **let as a residence** and the tenant pays **rent** to the landlord in return for **exclusive possession** of the premises, generally they are regarded as a tenant
- If someone is regarded as a tenant, generally they will be covered by legislation known as the **Residential Tenancies Act 1997**.



Where do Tenants live ?

Common options include :

Houses, flats, units, villas, caravan parks, bungalows, rooming houses, others ?

If you are on a lease (via a **tenancy agreement** or **verbal arrangement**) by yourself or with others (co-tenancy) you have **rights and responsibilities** just as a landlord will have **rights and responsibilities**



Rights, Responsibilities & Duties of Tenants

The tenant has a **responsibility** to:

- pay their **rent**,
- **keep** the property clean,
- **take care** to avoid damage to the property, and
- **notify** the landlord of damage.



Rights, Responsibilities & Duties of Tenants

Tenants **must not**:

- **withhold** rent when in dispute with the landlord,
- use the premises for **illegal** purposes,
- cause nuisance or interference with the **peace and quiet** of other tenants/residents or neighbours,
- install fixtures, make any alteration, renovation or addition without the landlord's **permission**, or
- sub-let or assign without the landlord's written **permission**.



Rights, Responsibilities and Duties of Landlords

The Landlord has a **responsibility** to:

- **maintain** the property,
- give the tenant **privacy**,
- provide **locks** to secure all external doors
- **lodge** bond money with the Residential Tenancies Bond Authority (RTBA), and



Rights, Responsibilities and Duties of Landlords

The Landlord has a **responsibility** to provide the tenant with information such as :

- the **Rights and Responsibilities** booklet,
- the landlord's **name and contact details** for emergency purposes
- and **information** about paying the rent and providing a receipt



Top Issues and others

Top issues : Repairs, Bond, Compensation Claims, Lease break, Notice to Vacate (Evictions)

Others : Rent increases, property inspections, bond issues, share houses, privacy, pets, assignment/sub-letting, landlord selling, evictions, family violence, goods left behind, tenant databases etc

Refer to our advice page on our website for a list of issues <https://www.tuv.org.au/>



Final thoughts

- If you have a tenancy issues, you are welcome to contact the Tenants Victoria for information and advice
- Consider appropriate resources such as **Renting a home : A guide for tenants**, **Tenants Victoria Fact sheets** etc
- **Keeping all evidence** i.e. Copy of the lease, Copy of Condition Report, Bond Receipt, Notice to Vacate/Notice of Rent Increase/Breach of Duty etc, Communication between landlord/real estate agent and tenant, Receipts, Photographs etc

