



COVID-19 AND THE LAW

YOUR RIGHTS AS A TENANT

This factsheet contains important information for tenants about the Victorian Government's new COVID-19 renting laws. These laws apply from 29 March 2020, and are currently in place for 6 months.

I have less income due to COVID-19 and can't pay the rent. Can I be evicted?

Yes, it is still possible to be evicted, though there is more protection for tenants due to changes in the law since the start of COVID-19. If you are unable to pay the rent without suffering 'severe hardship' due to a COVID-19 reason, for example losing your job due to the lockdown restrictions or unable to work due to being sick or self quarantining, then the new laws will protect you from evictions. You should gather evidence of how COVID-19 has affected your life and your ability to pay the rent as this will help you if the Landlord tries to evict you.

The landlord can no longer issue a Notice to Vacate for failure to pay rent. Instead, if the landlord wants to terminate the tenancy during this time, and you do not agree, they must apply to the Victorian Civil and Administrative Tribunal (VCAT). You would also be entitled to attend VCAT and say your reasons why terminating the tenancy would not be 'reasonable or proportionate' taking into account the whole situation including COVID-19. Note, VCAT is currently conducting all of its Hearings by phone.

VCAT will only terminate your tenancy if it finds that you in fact could have paid the rent without suffering severe hardship but chose not to. It is therefore important that even if you can't afford all the rent due, you at least pay as much as you can afford, each week or month the rent is due.

Can I still be evicted for other reasons?

Yes – the landlord can still apply to VCAT to 'terminate' your tenancy and evict you for many other reasons not related to COVID-19.

Examples of these could include:

- you or a guest cause damage to the property;
- the property becomes unsafe to live in; or
- the landlord is selling the property.

If VCAT makes an order to terminate your tenancy, they must set a date for when you have to move out by. The time frame is different for each reason – for example if you are causing danger to others it is immediate, while for other reasons it is between 14 to 90 days. If you receive any applications from the landlord to terminate your tenancy, seek legal advice immediately.

Can I ask for my rent to be reduced due to COVID-19?

Yes – COVID-19 impacted tenants and landlords are required to negotiate 'rent reduction agreements' which will reduce the amount of rent you have to pay. Landlords and tenants are being encouraged to negotiate honestly about how COVID-19 has affected their finances and what they can afford.

Consumer Affairs Victoria has issued guidelines that state they consider a tenant who is paying more than 30% of their household income on rent is in rental hardship. The new laws allow Consumer Affairs Victoria to mediate between you and the landlord about what the appropriate amount of rent should be, and even to make binding decisions if you can't come to an agreement.

If this is not successful, you can also apply to VCAT directly for a rent reduction. The new laws also state that, for all residential tenancies, the rent cannot be increased for 6 months from 29 March 2020.

Should I ask for a rent reduction or a rent deferment?

Consumer Affairs Victoria recommends that COVID-19 impacted tenants negotiate a rent reduction.

A rent reduction agreement means that your rent will be reduced for a temporary period – for example 3 or 6 months. This would mean you do not have to pay back the difference between the old and new rent later on.

A rent deferment is where you agree to put off paying some or all of your rent payments for a period of time – but after that time you will have to pay back that entire amount owed. This will leave you with a large debt later on. Think very carefully before you decide to sign any agreement that will create a large debt.

Consumer Affairs Victoria have stated that the form of the rent reduction agreement is not important, as long as it has the name of the tenant, name of landlord, property address, rent pre-agreement, rent for the period of the agreement and time period the agreement will be in place for.

A template for rent reduction agreements has been published by Consumer Affairs Victoria online.

Can I get government assistance to pay the rent?

Yes – if you're still struggling to pay your rent even after negotiating with the landlord, you might be eligible for the COVID-19 Rent Relief Grant which provides rent relief payments of up to \$2000 directly to your landlord or agent.

You might be eligible if:

- You have registered your rent reduction agreement or have already been through mediation with Consumer Affairs Victoria;
 - You have less than \$5000 in savings;
 - Your household income is less than \$1903 per week;
 - You have had a loss of income of 20% or more due to COVID-19; and
 - You are currently paying 30% or more of your income towards your rent (even after you have reduced the rent).
- Deakin University may also be able to offer some financial assistance for students. They offer a range of services such as interest-free loans and financial counselling. Please see further information here.

Can my landlord or real estate agent 'blacklist' me for failure to pay rent due to COVID-19?

No – not if your failure to pay rent is due to a 'COVID-19 reason'. This applies for the period up until 26 September 2020. If you think you have been listed during this period, even if the listing happens afterwards, seek legal advice.

Can I leave my tenancy early if I need to?

Yes – you still have all your usual rights as a tenant including the right to give a Notice of Intention to Vacate with no less than 28 days' notice before the end of your fixed term tenancy agreement or periodic (month to month) agreement.

A Notice of Intention to Vacate is simply a letter or email to the landlord that states the date you will be leaving. The notice must be in writing and must include the date you'll be moving out.

You also have the right to give a reduced notice period of no less than 14 days to end your tenancy agreement for these reasons:

- you need special care;
- you have received and accepted an offer of public housing or housing from a registered housing agency;
- you need to move into temporary crisis accommodation;
- you live in special disability accommodation and the landlord's registration to provide this accommodation has been revoked.

The new laws also add two more reasons that you can give a 14-day Notice of Intention to Vacate:

- you are suffering severe hardship (for example: financial reasons due to COVID-19) or
- the landlord has made an application to VCAT to terminate the tenancy.

A landlord cannot claim compensation or ask you to pay lease-break fees if you terminate your lease early by giving a 14 day Notice of Intention to Vacate for these reasons.

Need more help?

Deakin & Deakin Student Legal Service (DSLSS):

- Students can access the Deakin Student Legal Service by:
 - Visiting www.eclc.org.au/deakin to request an appointment
 - Calling Eastern Community Legal Centre directly on 9285 4822 for Burwood campus.
 - Calling Barwon Community Legal Service directly on 1300 430 599 for Warrnambool, Waterfront and Warrnambool campuses.
 - Off campus students are advised to make contact with the location nearest to you.
 - For further information visit: dusa.org.au | eclc.org.au/deakin | barwoncls.org.au
 - Free Interpreters Available: 131 450
- [DSLSS Resources for Students](#)
- [Deakin Financial Assistance for students](#)
- [Deakin International Student Advisers](#)
- [Deakin University Student Association \(DUSA\)](#) - includes financial counselling, student advocacy and support services.

Need more help continued...

Other services in Geelong/Barwon region:

- [Barwon Community Legal Service](#) - free legal help for people experiencing tenancy law issues as a result of COVID-19 - call 1300 430 599
- [Diversitat](#) Tenancy Assistance and Advice Program – free local advocacy for tenants in all areas of tenancy law – call (03) 5260 6000 or via email at taapbarwon@diversitat.org.au
- [Bethany Tenancy Plus](#) – advocacy for public and community housing tenants – call (03) 5278 8122

State-wide services:

- [Tenants Victoria](#) – provides information, advice and legal representation to promote and protect the rights of Victorians who rent their homes - contact via [email](#)
- [Anika Legal](#) – sample letters and tenancy advice online
- [Justice Connect Dear Landlord](#) – sample letters and tenancy advice online
- [Consumer Affairs Victoria](#) – online information and negotiating with landlords

Financial assistance for tenants:

- [Deakin Financial Assistance for students](#)
- [COVID-19 Rent Relief Grant](#) – for up to \$2000 grant to be paid to your landlord
- [Rent Assistance](#) through Services Australia as part of a [JobSeeker](#) or other government payment.
- [Redcross Australia](#) - provides some financial assistance if you are not eligible for government payments due to the Visa status.
- [Salvo-Connect Barwon South West](#) - Private Rental Assistance Program (PRAP) provides people who are homeless or at risk of homelessness with financial and practical assistance.

Other useful resources:

- [Victorian Civil & Administrative Tribunal \(VCAT\)](#) – application forms and information about hearings.
- [Consumer Affairs Victoria \(CAV\)](#) – information about your rental rights and copies of standard forms and agreements.
- [CAV - Coronavirus \(COVID-19\) and your rights](#) – information about the many changes to rental rights as a result of the COVID-19 health crisis.
- [Coronavirus \(COVID-19\) rent relief grant](#) – If you are experiencing rental hardship due to COVID-19, you may be eligible for assistance.

