

A Day at the Bench

going to the Tribunal

a guide for Victorian tenants and residents

A Day at the Bench

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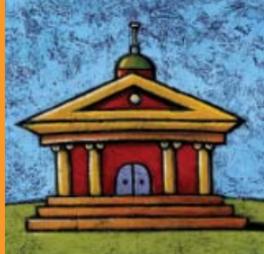
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The information in this DVD and handbook is a guide only and should not be used as a substitute for the *Residential Tenancies Act 1997*, the *Victorian Civil and Administrative Tribunal Act 1998* or professional legal advice.

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Introduction



About this DVD

This DVD and accompanying handbook are designed to help tenants who are going to the Victorian Civil and Administrative Tribunal (VCAT).

'A Day at the Bench' shows you how to apply and prepare for a Tribunal hearing, as well as how to prepare to defend your landlord's claims if you receive a Notice of Hearing.

Going to the Tribunal can be a challenging experience, but it can also be rewarding. It's important to remember that going to the Tribunal is an opportunity to stand up for yourself and be heard. In many cases it's the only practical way to enforce your rights as a tenant.

We hope this DVD will help you understand the process of going to the Tribunal. Remember, if you feel unsure about going it alone, you can contact the Tenants Union for help.

How to use this DVD kit

'A Day at the Bench' includes a 25-minute film on going to the Tribunal and this accompanying handbook.

While the film is scripted and acted, it shows a typical example of what tenants can expect when applying for a hearing and going to the Tribunal.

Ideally, you should start by watching the whole film all the way through. You can then return to individual scenes within the film or look up the corresponding chapters in this handbook.



This handbook expands on the topics that are covered in the film. It also provides some extra material in the form of a definition of terms, a checklist of what to bring with you to the Tribunal and the contact details for useful organisations such as the Tenants Union.

As you read this handbook you will come across words that are highlighted in **orange**. This means that we have provided the meaning of the word under the 'Definition of terms' on pages 19-24.

You can download this handbook from the Tenants Union website at www.tuv.org.au. Additional copies of the DVD and handbook are available from the Tenants Union of Victoria (see 'Contacts' on page 31 for details).

About the Tribunal

If you are having a problem with your **landlord** that you haven't been able to resolve, you may be able to take the **landlord** to the Residential Tenancies List of the **Victorian Civil and Administrative Tribunal (VCAT)**. The **Tribunal** will hear what you and your **landlord** have to say on the matter and will make a ruling on how the problem is to be addressed.

The **Tribunal** is quicker, cheaper and less formal than to going to court. While it's not a court of law, **Tribunal** decisions (known as '**orders**') are legally binding.

Unlike a court, the **Tribunal** generally doesn't award **costs**, although it may do so in some circumstances.



The **Tribunal** can hear any dispute that falls under the *Residential Tenancies Act (RTA) 1997*, which is the legislation that sets out the rights and duties of tenants, residents and **landlords** in Victoria. The **Tribunal** can also hear tenancy-related disputes that fall under the *Fair Trading Act 1999*.

Common problems heard at the **Tribunal** include:

- > urgent and non-urgent repairs
- > **bond** claims
- > **compensation** claims
- > **rent** increases
- > possession **orders** (eviction)

The **Victorian Civil and Administrative Tribunal** is at 55 King Street Melbourne. The Tribunal also sits at the Magistrates' Courts at Dandenong, Frankston, Heidelberg, Ringwood, Sunshine and Werribee and at 27 venues throughout country Victoria.

Applying to the Tribunal



Who can apply

If your rental situation and your tenancy problem are covered by the *Residential Tenancies Act (RTA) 1997*, you can apply to the **Tribunal**. Generally, this includes Victorians who are:

- > private tenants and **landlords**
- > public housing tenants and the **Director of Housing**
- > rooming house residents and owners/managers
- > caravan park residents and owners/managers
- > transitional housing tenants and managers

If you are not sure whether you can apply, contact the Tenants Union for advice.

When to apply

You should apply to the **Tribunal** if you have tried, without success, to resolve a problem that you are having with your **landlord** or their **real estate agent**. Before you apply, you should get advice from the Tenants Union of Victoria.

With some types of tenancy disputes there are steps you need to take to try and resolve the problem before the **Tribunal** will schedule a **hearing**. For example, before applying to the **Tribunal** for general repairs, you must first serve a 14-day Notice to Landlord and have a Consumer Affairs Inspector visit your home and provide a report confirming repairs are needed. The Tenants Union can explain the steps to take for your particular problem.

How to apply

To apply to the **Tribunal**, you need to complete the **Victorian Civil and Administrative Tribunal** Application form. The form is available from the Tenants Union, the **Tribunal** or Consumer Affairs Victoria, and can be downloaded from www.vcat.vic.gov.au or www.consumer.vic.gov.au.

You will find instructions on the form, but if you need help to complete it or have any questions you should contact the Tenants Union. Make sure that where you are asked to name the **landlord**, you put the **landlord's** name and not the name of the **agent**. If you are a public tenant, your **landlord** will be the **Director of Housing**.

Attach a copy of all the relevant documents to your application such as a Notice to Landlord, a Consumer Affairs report, letters, bills or receipts.

Make sure you give an address where notices can be sent to you. Ideally this should be your home address but a work address or the address of a friend or relation will do, as long as you can check your mail daily. You should also include a phone number, which can be a mobile phone number or even just somewhere that a message can be left for you. (If you change your address after lodging the form, write to the **Tribunal** and your **landlord** and/or **agent** to let them know.)

You must send the green copy of your application form to the **landlord** or **agent** within seven days of lodging it with the **Tribunal**. Use registered mail and keep the mail receipt and your own copy of the application (yellow copy).

If you need to make any changes to your **Tribunal** application (eg a change of address) you should notify the **Tribunal** and the **landlord** and/or **agent** in writing as soon as possible.

Application fee

When you send your application to the **Tribunal**, you will need to attach a money order or bank cheque to cover the application fee. If you are paying in cash, you will need to take your application to the **Tribunal** and pay in person.

If you can't afford the fee because you are on a low income, you may be able to have the fee waived or reduced by filling out a Fee Waiver form. This form is also available from the Tenants Union, the **Tribunal** or Consumer Affairs Victoria.

There is no fee for applying for the return of your **bond** money.

Special needs

If your tenancy problem is **urgent**, make this clear on the application form and if possible, take your application to the **Tribunal** in person. If for example, you have been illegally evicted or repairs are needed urgently, you may be able to get a **hearing** on the same day.

If you need an **interpreter**, contact the **Tribunal** before the **hearing** date to let them know. If an interpreter is not provided at the **hearing** you should ask for an **adjournment**.

With the **Tribunal's** permission, a **hearing** can be held by **video link** or **telephone conferencing**. This will need to be arranged well before the date of the **hearing**.

Notice of Hearing

The **Tribunal** will send both you and your **landlord** a **Notice of Hearing** to let you know when and where the **hearing** will take place. How long you have to wait depends on the type of problem and how busy the **Tribunal** is.

If your landlord has applied to the Tribunal

If your **landlord** has applied to the **Tribunal**, you should receive a copy of their application in the mail. You should also receive a **Notice of Hearing** from the **Tribunal**.

It is vital that you go to the **Tribunal hearing. If you are not there to defend yourself, it is very likely that your **landlord** will succeed in whatever claims they are making against you.**

If the **landlord** or **agent** tells you that they have withdrawn their application or that the **hearing** has been postponed or cancelled, you should phone the **Tribunal** to make sure this is correct. Ask the **Tribunal** for confirmation in writing.

Withdrawing your application

If you wish to withdraw your application, you will need to complete the Withdrawal of Application form. You will find this on the back of the ‘**applicant’s copy**’ of the **Tribunal** application form—the yellow page that you keep as your own copy of your application.

Applying for an adjournment

If you know that you won’t be able to go to **hearing** on the day it has been scheduled, you will need to write a letter to the **Tribunal** to request an **adjournment**. Contact the Tenants Union for advice about this. If your request is granted, your **hearing** will be re-scheduled for another date.

A request for an **adjournment** must be made at least two business days before the date of the **hearing**. You will need to back up your request with some kind of documentation such as a **medical certificate**.

Representation

You don't have to go to the **hearing** alone—you are welcome to take someone with you for support.

In most cases, tenants represent themselves and **landlords** are usually represented by their **agent**.

You may be represented by a professional **advocate** such as a solicitor when:

- > the **landlord** is seeking an **Order** of Possession to have you evicted
- > the **landlord** is a professional **advocate**
- > the **landlord** is represented by a professional **advocate**
- > the **Tribunal** allows you to be legally represented

If you think that you will need **representation**, you should contact the Tenants Union as soon as you receive the **Notice of Hearing**. We will assess your request and if we are able to represent you, we will need time to help you prepare.

If we are unable to represent you, we are always happy to provide advice on how to prepare for a **hearing**. This DVD is also designed to help you represent yourself at the **Tribunal**.

You can also seek advice and possibly **representation** from a **duty lawyer** at the **Tribunal**. The **duty lawyer** service is free to anyone appearing at the **Tribunal**.



Authorisation to act on your behalf

If it is not possible for you to go to the **Tribunal**, you can authorise someone to act on your behalf. This may be necessary, for example, if you have moved interstate or overseas.

If there is someone who can go to the **Tribunal** for you, you will need to provide them with a letter that states both your name and theirs and says that they are 'authorised to act on your behalf'. Remember to sign and date the letter.

(Please note: the Tenants Union cannot represent you at the **Tribunal** if you are unable to attend the **hearing**.)

Preparation



Preparing your case

To be well prepared for your **hearing**, you should collect all the relevant documents that will help to support your case.

The **Tribunal Member** can only make their decision based on the arguments and **evidence** presented to them at the **hearing**.

Sometimes the **Tribunal** will set a **hearing** date at short notice. If you don't have much time to get organised, prepare the best you can with as much **evidence** as possible or otherwise seek an **adjournment**.

Documents

At the **hearing**, you should have your supporting documents with you such as your **tenancy agreement**, **Condition Report**, letters, receipts or photographs (see the 'Tribunal hearing checklist' on page 25 for more information).

Dates can be very important. It is helpful to write down a brief account of events (including telephone calls) and the date on which they occurred.

Before the **hearing**, make two photocopies of any documents or photographs that you want to show the **Tribunal** (ie one for the **Tribunal Member** and one for the **landlord** and/or **agent**). Bring the originals with you also, as the **Member** will probably ask to see them.

Have all your documents clearly labelled so you can find them quickly and easily. Put them in a file or document holder and attach a list to the front that shows the contents at a glance.



Witnesses

If there is anyone who can help to support your claims, they are welcome to attend the **hearing** as a **witness** and tell the **Tribunal** what they know. It is up to you to arrange for a **witness** to attend the **hearing**.

If a **witness** cannot attend the **hearing**, they can give their **evidence** in a **statutory declaration** or **affidavit** for you to present to the **Tribunal**. However, the **Tribunal** does prefer that a **witness** give **evidence** in person.

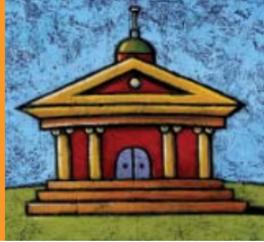
If a **witness** refuses to attend the **hearing** and you believe that their **evidence** is important, you can ask the **Tribunal** to issue a **witness summons**. You must apply for a **summons** before the date of the **hearing**.

Make sure your **witness** knows when and where the **hearing** will take place and that they understand how important it is that they arrive on time.

Personal appearance

What you wear to the **Tribunal hearing** is important. Check that your clothes are neat and tidy and that you appear well groomed.

Before the hearing



Arriving at the Tribunal

When you arrive at the **Tribunal**, report to reception. Give your name and let them know that you are there to attend a **hearing**.

When the **hearing** is about to begin, you will be called by name into a **hearing** room.

Arrive at the **Tribunal** 15 to 30 minutes before the **hearing** starts. If you are late and you were the **applicant**, the **hearing** will be dismissed. If you are late and the **landlord** was the **applicant**, the **hearing** will probably go ahead without you. If the **hearing** goes ahead and you're not there to give your side of the story, it's likely that any **orders** that are made will be in the **landlord's** favour.

If either you (or any of your **witnesses**) are running late, let the reception staff know. It may be possible to delay your **hearing** for a short time, although this will not reflect well on your case.

If you plan to speak to a **duty lawyer** or talk to your **landlord** or their **agent** before the **hearing**, you will need to allow extra time for this.

If for some reason you cannot get to the **Tribunal**, you may be able to apply for a review of the decision. If a review is granted, the case will be reheard (see '**Review hearings**' and **re-hearings**' on page 17).



Negotiation

Even when you are about to go into a **hearing** you can still try and negotiate with the **landlord** or **agent**. It's not always possible, but you may be able to reach an agreement before the **hearing** starts.

If you do reach an agreement, go ahead with the **hearing** and ask the **Tribunal Member** to make a 'Consent **Order**' to formalise the agreement. This will make the **landlord** legally bound to keep to the agreement.

During the **hearing** the **Member** will probably ask if you and the **landlord** or **agent** have tried to reach an agreement. Even if you weren't able to reach an agreement, it helps to be able to say that you tried.

At the hearing



Tribunal rules and etiquette

While the **Tribunal** is less formal than a court, there are some rules to be followed.

Firstly, make sure your mobile phone is turned off before you enter the **hearing** room.

Make sure that you sit in the correct place at the bar table. The **applicant** (the person who applied to the **Tribunal**) sits on the right side facing the bench where the **Member** will sit. The **respondent** sits on the left.

Don't put your bag or personal belongings on the table. This space is used only for documents, notepads and pens.

The Member

The person who hears a case at the **Tribunal** is called a '**Member**'. The **Member** is usually a judge or an experienced legal practitioner. **Members** don't wear wigs or gowns or use gavels but you are still expected to show them respect at all times.

You should stand up when the **Member** enters or leaves the room. Do not sit down until the **Member** asks you to do so.

Address the **Member** as Sir, Madam or **Member**. If you want to hand the **Member** a document or other item, you must first ask for permission to approach them or the bench.

Never interrupt or talk over the **Member** and always speak respectfully during the **hearing**.

During the hearing

At the start of the **hearing** you will be asked to 'swear in'. The **Member** will ask you and the **landlord** or **agent** to take an oath on the Bible or to make an affirmation that you will tell the truth.

At the start of the **hearing** the **Member** will ask about the details of your tenancy. These are usually the start date of the tenancy, the amount of rent paid and the frequency of rental payments (ie whether you pay weekly, fortnightly or monthly).

Usually the **applicant** will be asked to present their case first.

Let the **landlord** or their representative tell their side of the story without interrupting or commenting. It's a good idea to take notes if you wish to disagree or question something they are saying. Wait patiently and when the **Member** asks how you respond, speak directly to the **Member** instead of the **landlord**.

If you feel that you haven't been given enough time to state your case, politely but firmly point out that you have further points to make or other **evidence** to present.

If you would like to present new **evidence** you should first ask the **Member** for permission to do so, and provide a copy to the **landlord** and/or **agent** as well as to the **Member**.

If the **landlord** or their representative says anything that is not relevant to the case, you should point out to the **Member** that the comments are not relevant and should not be taken into consideration.

If the **Member** believes that the **applicant** has not proven their case, they will dismiss it.

Orders

After hearing from both sides, the **Tribunal Member** will make a decision on the case, which they will then put into the form of an 'order'. If your case is complicated, you can ask the **Tribunal** to provide written reasons for their decision, but you should ask the **Member** for this at the start of the **hearing**. If you don't understand the decision, ask the **Member** to explain it to you slowly.

Both you and the **landlord** will receive a written copy of the **order**, usually within a couple of weeks of the **hearing**.

Tribunal orders are legally binding. Failure to follow a monetary or non-monetary **order** can result in prosecution and a fine, as well as **enforcement** action.

If the **Tribunal** orders that you have to pay money and you do not have the funds, you may like to speak to a financial counsellor for advice. See the 'Contacts' section for details.

If the **landlord** does not obey the **Tribunal order**, there are steps you can take to make sure they do. Contact the Tenants Union for advice on enforcing an **order**.

Review hearings and re-hearings

If the **applicant** misses the **hearing**, the case will be dismissed. If your **landlord** has applied for a **hearing** and you do not attend, **orders** can be made in your absence.

If you missed a **Tribunal hearing** due to illness or other circumstances beyond your control and an **order** has been made against you, you can apply for a **Review Hearing**.



You will need to complete an Application for **Review Hearing** form (available from the Tenants Union, the **Tribunal** or Consumer Affairs Victoria) and send it to the **Tribunal** within 14 days of receiving the written **orders** from the original **hearing**. You should also attach any relevant documents that support your reason for missing the **hearing**, such as a **medical certificate**. There is no fee for this application. If you are given a **Review Hearing**, you will be sent notice of the time and date.

At the **Review Hearing**, the **Tribunal Member** will decide if a **re-hearing** will be granted. If granted, the **re-hearing** may go ahead immediately and the **Tribunal Member** will expect to hear and see your **evidence** (and that of any **witnesses** you may have). The **Member** will then decide whether to uphold, reject or change the previous **orders**.

Appeals

If you are unhappy about the decision made by the **Tribunal**, you can **appeal** to the Supreme Court. You have 28 days from the date of the **order** to lodge an **appeal**.

Supreme Court **appeals** can be very expensive. If you want to **appeal**, you should get advice from the Tenants Union as soon as possible.

Definition of terms



The following is an explanation of some of the terms used in this DVD and handbook. While some of the terms have a broader meaning, we have given the definitions as they apply to tenants and the **Victorian Civil and Administrative Tribunal (VCAT)**.

Adjournment

Where a **Tribunal Member** agrees to delay or interrupt a **hearing** until a later time or date.

Advocate

A person who is qualified and/or has the knowledge and experience to represent a tenant at the **Tribunal**. The role of the advocate is to advise and act in the tenant's best interests.

Affidavit

A written statement that is believed by the person who wrote it to be the truth. An affidavit from a **witness** can be shown as **evidence** at the **Tribunal**.

Agent

See 'Real Estate Agent'.

Amendment

A change or correction to a document or form.

Appeal

Taking a **Tribunal** or court decision to a higher court with the aim of having the decision overturned. Appeals against **Tribunal** decisions can be made to the Supreme Court.

Applicant

A person who applies or has applied to the **Tribunal**.

Bond

A security deposit paid at the start of a tenancy, usually equal to one month's rent.

Breach (of Duty)

When a tenant, resident, **landlord** or **agent** fails to meet their duty under a **tenancy agreement** or the *Residential Tenancies Act (RTA) 1997*.

Compensation

Money paid to someone to make up for having caused them financial loss, inconvenience and/or pain and suffering. The **Tribunal** can order the payment of compensation for financial loss and/or inconvenience.

Condition Report

A form that documents the condition of a property when moving into the property and again when moving out. It is completed by both the tenant and **landlord** or their **agent**.

Costs

The out-of-pocket expenses involved in going to the **Tribunal**, such as loss of income, travel expenses etc. Usually both parties cover their own costs, although in some circumstances the **Tribunal** may order that one **party** pays the costs of the other.

Director of Housing

The '**landlord**' of public housing, which is the rental housing owned by the Office of Housing and provided to eligible tenants at a reduced rent.

Duty Lawyer

A lawyer who can give free legal advice and can represent someone who is scheduled to go to a **hearing**. You can find a duty lawyer at the **Tribunal**.

Enforcement

Action taken to make someone comply with (ie obey) a **Tribunal order**.

Eviction

The removal of a tenant from a property. It is illegal for a **landlord** or **agent** to evict a tenant themselves. They must apply to the **Tribunal** for a Possession **Order** and a Warrant of Possession, which they then give to the police. Only the police can carry out an eviction.

Evidence

A statement or testimony of fact or truth, or anything such as a document or photograph that provides supporting proof.

Fixed-term Agreement

The agreed length of a tenancy (eg 12 months).

Hearing

Where two parties who are in dispute can each present their side of the story to an independent **Member**, who decides how the dispute will be resolved.

Landlord

A person who leases a property to a tenant.

Lease

See 'Tenancy Agreement'.

Medical Certificate

A signed statement from a medical professional that states that they have seen someone as a patient on a certain date and found them to have a medical condition.

Member

The person who presides over a **Tribunal hearing** and makes legally binding decisions in the form of **orders**.

Notice of Hearing

Notification in writing that a **Tribunal hearing** has been set, including the time, date and location of the **hearing**.

Order

A legally binding decision or ruling of the **Tribunal** based on the arguments and **evidence** presented at a **hearing**.

Party

A person or entity (eg a company or agent) who enters into an agreement, transaction or legal proceedings with another person or entity.

Periodic Agreement

A **tenancy agreement** or lease that, unlike a fixed-term agreement, is not limited to a set timeframe such as 12 months. A periodic agreement runs from period to period (ie month to month) until either the tenant or **landlord** ends the tenancy.

Proceedings

A case that is underway in a court or **Tribunal**.

Real Estate Agent

A professional person who is paid to act on behalf of a **landlord**.

Registrar

A staff member who organises the work of the **Tribunal**. The Principal Registrar is the head Registrar at the **Tribunal**.

Rehearing

See 'Review hearing and re-hearing'.

Reimbursement

Repayment of money that has been spent.

Rent

Money paid by a tenant in exchange for living in a **landlord's** property.

Representation

Where one person speaks, acts or makes submissions on behalf of another person.

Residential Tenancies Act (RTA) 1997

The legislation that sets out the rights and duties of tenants, residents and **landlords** in Victoria.

Respondent

A person who receives notice to attend a **Tribunal hearing** because someone is making a claim against them.

Restraining Order

A court or **Tribunal order** that prevents a person from doing something.

Review Hearing & Re-hearing

At a review hearing, a **Tribunal Member** hears why a person was unable to attend a **Tribunal hearing** and decides whether or not the **applicant** has the right to a re-hearing.

At a re-hearing, the **Member** reviews any **orders** made at the hearing that the **applicant** was unable to attend and decides whether to uphold, reject or change the **orders**.

Statutory Declaration (or 'Stat Dec')

A form used to write a **sworn statement**, signed both by the person making the statement and a person witnessing the statement. The **witness** must be a respected member of the community such as a solicitor, Justice of the Peace (JP), police officer, pharmacist or medical professional. It is against the law to make a false statement in a statutory declaration.

Summons

Notice given to a person that they are required by law to appear at a court or **Tribunal hearing** to give **evidence** and/or show documents.



Swearing In

A declaration or statement that a person will tell the truth and will provide only truthful evidence.

Sworn Statement

A written statement that is 'sworn' or given as the truth.

A sworn statement can be a **statutory declaration** or an **affidavit**.

Tenancy Agreement (or 'Lease')

An agreement between a tenant and **landlord** that the tenant will meet certain conditions such as the payment of rent in order to live in premises owned or managed by the **landlord**.

A tenancy agreement can be written or verbal.

Tribunal

See 'Victorian Civil and Administration Tribunal (VCAT), Residential Tenancies List'.

Undertaking

A formal promise to the **Tribunal** or to another **party** to act or to not act in a particular manner.

Victorian Civil and Administration Tribunal (VCAT), Residential Tenancies List

The place where disputes between tenants and **landlords** that are covered under the **Residential Tenancies Act (RTA) 1997** can be heard by an independent and experienced decision maker.

Witness

A person that has seen, heard or who knows something that is relevant to a matter being heard at the **Tribunal**.

Tribunal hearing checklist



What are the basic things I should bring to the Tribunal?

Whatever your reason for going to the Tribunal, the following is a list of what you should always bring with you to the hearing:

- a copy of your tenancy agreement or 'lease'
- a copy of the Condition Report/s
- a copy of all letters, emails etc between the landlord/agent and yourself
- a written account of all relevant events (including telephone calls) in the order in which they occurred
- a calendar, calculator, notepad and a couple of pens
- a few brief notes to remind you of what to say at the hearing

When you are taking the landlord to the Tribunal

When you are applying for an order that the landlord carry out non-urgent repairs

In addition to the basics listed above, you should also bring the following to the hearing:

- a copy of your Notice to Landlord to carry out repairs
- a copy of the Consumer Affairs Victoria Inspector's Report
- a copy of all letters, emails etc between yourself and the landlord/agent about the repairs

- any photographs showing the repairs needed to the property
- any evidence showing the expense or inconvenience you have suffered or are suffering because the repairs have not been carried out

When you are applying for an order that the landlord pay you compensation

If you are claiming compensation because the landlord has failed to carry out repairs, or because you were unable to use part of the property or facilities on the property, you should take the basic items on page 25, plus the following:

- a copy of your Breach of Duty Notice seeking compensation
- a copy of all notices, letters, emails etc between yourself and the landlord/agent about the repairs
- any photographs showing the repairs that were needed to the property

When you are seeking reimbursement for urgent repairs

In addition to the basic items listed on page 25, you should bring the following documents to the Tribunal:

- any receipts for repairs that you paid for
- a copy of your Notice to Landlord to seek reimbursement
- any evidence that shows that you attempted to contact your landlord or agent before you arranged for the repairs to be done (eg copy of letters, notices or a list of the telephone calls you made or tried to make)
- any photographic or other evidence which shows that the repair was urgent and that it was not caused by you or a visitor to your home

When you are seeking an order against your landlord and/or compensation for breach of 'quiet enjoyment'

If you are applying to the Tribunal for an order restraining your landlord or agent from breaching your right to privacy or 'quiet enjoyment of the premises', and/or you are seeking compensation for your loss of privacy, you should bring the basic items on page 25 plus:

- a list of all the occasions (ie times and dates) that the landlord or agent has entered or tried to enter the premises, or has telephoned or written to you
- a statutory declaration from anyone who has witnessed the landlord or agent's behaviour
- a police report if you have called the police to your premises to deal with your landlord or agent
- receipts or other documents supporting your claim for compensation

When you are seeking an order that a rent increase is excessive

In addition to the basic items listed on page 25, you should also bring the following with you to the Tribunal:

- a copy of the notice from the landlord or agent informing you of the rent increase
- a copy of the Consumer Affairs Victoria Inspector's Report
- any evidence showing the level of market rent for similar properties in the same area (eg newspaper advertisements, letters or listings from other agents)

When the landlord is taking you to the Tribunal

When the hearing is for rent arrears

If the landlord is seeking an Order of Possession for non-payment of rent, you should bring the basic list of items on page 25 plus the following:

- all rent receipts or other records of rental payments such as rent deposit books, bank statements etc
- a calculation showing the date that your rent is paid up to and how much rent you owed on the date that the Notice of Vacate was served
- a calculation showing how much rent you still owe on the date of the hearing
- any documents that show why you got behind in your rent such as medical certificates, letters from employers, unexpected bills etc
- a calculation showing how you can pay off the rent arrears by instalments, including statements from a financial counsellor, bank statements, income statements etc
- any evidence of the hardship you will suffer if you are evicted, such as letters from your children's school, social workers etc

When the landlord is trying to evict you

When your landlord's application to the Tribunal is for an Order of Possession (an eviction order), you should take the basic items on page 25 as well as the following documents:

- a copy of the Notice to Vacate
- a copy of your landlord's application to the Tribunal

When the landlord is making a claim on your bond for repairs or cleaning

If your landlord has applied to the Tribunal to keep all or some of your bond money, you should take the basic items listed on page 25 along with:

- a copy of the Condition Report/s
- any photographs you have that show the condition of the property when you moved in or out (especially the carpet, windows, paintwork and kitchen and bathroom fittings)
- any evidence that the damage is simply fair wear and tear (eg the carpet is old)
- any evidence of you reporting to the agent or landlord that repairs are needed
- receipts for cleaning or repairs that you paid for
- a statutory declaration from anyone who saw the condition of the premises when you moved in and/or out
- quotes you got for repairs or cleaning if you think that the landlord's or agent's quotes are unreasonable

When the landlord is claiming costs from you for breaking the lease

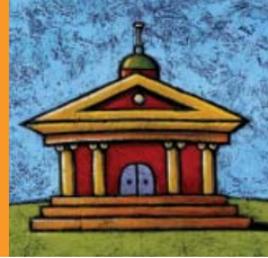
If the landlord is applying to keep your bond or is claiming compensation for costs because you broke your lease, in addition to the basic list of items on page 25, you should take the following to the hearing:

- a copy of your notice or letter notifying the landlord or agent that you were moving out
- a copy of any written reply from the landlord or agent
- any evidence supporting your reason for breaking the lease



- any evidence showing that the landlord or agent has not taken all reasonable steps to find a new tenant (eg they have failed to advertise the property or have increased the rent)
- any evidence showing that the landlord or agent unreasonably refused an application to lease the property (you can present evidence from a person you referred to the landlord or agent, or from someone that you know who applied)

Contacts



Please note: Information is correct at the time of printing but may be subject to change.

Victorian Civil and Administrative Tribunal (VCAT)

55 King Street Melbourne 3000

☎ 9628 9800

☎ 1800 133 055 (freecall)

☎ 9628 9822

www.vcat.vic.gov.au

Tenants Union of Victoria (TUV)

55 Johnston Street Fitzroy 3065

☎ 9416 2577 advice line

☎ 1800 068 860 (freecall) public tenants

☎ 9411 1444 rooming house residents and admin

☎ 9416 0513

advice@tuv.org.au

www.tuv.org.au

Consumer Affairs Victoria (CAV)

Victorian Consumer & Business Centre

113 Exhibition Street Melbourne 3000

☎ 1300 55 81 81 (local call charge)

☎ 8684 6295

www.consumer.vic.gov.au

Residential Tenancies Bond Authority (RTBA)

17/121 Exhibition Street Melbourne 3000

☎ 1300 137 164

☎ 8684 6299

rtba@justice.vic.gov.au

www.rtba.vic.gov.au

Victoria Legal Aid (VLA)

Melbourne Office

350 Queen Street Melbourne 3000

☎ 9269 0234

☎ 1800 677 402 (country callers)

www.legalaid.vic.gov.au

Victorian Aboriginal Legal Service (VALS)

Head Office

6 Alexandra Parade Fitzroy 3065

☎ 9419 3888 (24 hours)

☎ 1800 064 865 (24 hours freecall)

☎ 9419 6024

www.vals.org.au

Financial and Consumer Rights Council (FCRC)

☎ 9663 2000

☎ 1800 134 139 (freecall)

www.fcrc.org.au

This DVD and accompanying handbook have been written and produced by the Tenants Union of Victoria to help tenants and residents who are going to a hearing at the Victorian Civil and Administrative Tribunal (VCAT) Residential Tenancies List.

'A Day at the Bench', includes a 25-minute film which takes you through the process of going to the Tribunal, along with a handbook which brings you more detailed information on topics such as:

- > who can apply for a hearing
- > how to apply
- > notice of hearing
- > adjournment
- > representation
- > preparing for a hearing
- > witnesses
- > Tribunal rules and etiquette
- > decisions and orders
- > review hearings and re-hearings
- > appeals
- > definition of terms
- > checklist of what to bring
- > useful contacts

You can download 'A Day at the Bench' from the Tenants Union website at www.tuv.org.au. Additional copies are also available from the Tenants Union of Victoria.

55 Johnston Street Fitzroy 3065
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