

When you want to leave

When you don't have a fixed-term tenancy agreement

You must give at least 28 days' notice of intention to vacate to the landlord if you intend to move out of your rented premises.

A Notice of Intention to Vacate is simply a letter to the landlord that states the date you will be leaving. This date must be 28 days from the day that the landlord receives the notice. This means that if you send the notice by mail rather than giving it in person, you need to allow an extra 2 business days for delivery. Keep a copy of the notice and use registered mail (keep the mail receipt) so you can prove the date that you sent it.

If you intend to leave before the 28 days are up, you should tell the landlord and return the keys so the premises can be re-let earlier if possible. If other tenants can be found before the 28 days are up, you will not be liable for rent from the date that they move in.

In some circumstances, you only have to give 14 days' notice that you intend to leave. This applies when:

- > the landlord has given you a 120-day Notice to Vacate
- > the landlord has given you a 60-day Notice to Vacate
- > you are a public tenant and you receive a 90-day Notice to Vacate because you no longer meet the eligibility requirements
- > you require special or personal care that you cannot get at your rented property
- > you have a written offer of public housing
- > you are going into temporary crisis accommodation

When you do have a fixed-term tenancy agreement

If your fixed-term lease is about to expire, you can give 14 or 28 days' notice in writing (as explained above). If you intend to move out on the date that the fixed term expires, you still have to give written notice. This is

because when a fixed-term agreement expires, it automatically continues as a periodic agreement (ie month to month) until either you or the landlord give notice.

The date that you give as the last day of your tenancy **cannot be before the last day of the fixed term**. This applies even when the landlord has given you a Notice to Vacate that expires on the last day of the fixed term.

If you have a fixed-term tenancy agreement and you want to leave before the expiry date, you will probably be liable for lease breaking costs (see the **Breaking a lease** fact sheet for more information).

When the landlord is in breach

If your landlord or agent are in breach of a duty under the *Residential Tenancies Act 1997*, you may be able to end your tenancy early without having to pay the usual lease breaking costs. The landlord has breached a duty if they do not:

- > make sure the property is vacant and reasonably clean on the date you are supposed to move in
- > allow you to have 'quiet enjoyment' of the property
- > keep the property in good repair
- > provide locks, or do not provide you with a key when they change a lock
- > replace a faulty water appliance with a properly rated appliance

➡ There is a separate procedure for repairs. See the **Repairs** fact sheet for more information or contact the Tenants Union for advice.

If the landlord fails in any of these duties, you can send them a Breach of Duty Notice. This notice informs the landlord that they must fix the problem (and if appropriate, pay compensation) within 14 days. See the **Breach of Duty Notice** fact sheet for more information.

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If the landlord still fails to fix the problem after receiving a Breach of Duty Notice, you can apply to the Victorian Civil and Administrative Tribunal for a Compliance Order. If the landlord doesn't comply with the Tribunal order, you can send them a 14-day Notice of Intention to Vacate. You should send the notice by registered mail (allow 2 days for delivery) and keep a copy of the notice and the mail receipt.

You can also send your landlord a 14-day Notice of Intention to Vacate if you have sent them a Breach of Duty Notice twice before for the same breach, and your landlord breaches that duty for a third time. Keep copies of all Breach of Duty Notices that you send, along with any evidence that you have of the breaches. For more information see the **Breach of Duty** fact sheet.

Premises unfit for human habitation

If the property is unsafe or unfit for human habitation, you can give an immediate Notice of Intention to Vacate. Make sure you have sufficient evidence to support any claim that the premises are unsafe or unfit for human habitation.

Making your final rent payment

You don't have to wait until your rent is due before you give notice that you intend to vacate. If you want to leave in the middle of a rent cycle, you should calculate how many days' rent you owe and pay that amount as your final rent payment. For example, if you give 28 days' notice halfway through a monthly rent cycle, you will only have to pay about 2 weeks' rent. To calculate the amount, work out your daily rent (your monthly rent times 12, divided by 365) then multiply that amount by the number of days you will be in the property.

➔ It is illegal to refuse to pay the rent on the grounds that the landlord can use the bond as rent.

Your tenancy ends when you have vacated the property and returned the keys. Make sure you return the keys on the day that you leave, as you will still be in possession of the property (and therefore liable to pay rent) until you give them back. See the **Ending a tenancy** fact sheet for more information.

If you change your mind about leaving

If you want to withdraw your Notice of Intention to Vacate, you must do this in writing and get your landlord or agent to sign it. They can refuse to accept your withdrawal. If the landlord or agent does sign, you may have to pay compensation for any costs they may have incurred such as the cost of advertising for new tenants.

If you give a Notice of Intention to Vacate and you don't leave by the date that you gave on the notice, your landlord can apply to the Victorian Civil and Administrative Tribunal for a Possession Order, which may lead to you being evicted. Contact the Tenants Union for advice.

For more information phone the Tenants Union Advice Line on ☎ (03) 9416 2577.