

UNDERSTANDING THE RESIDENTIAL TENANCIES ACT OF VICTORIA



BY EMILY MARIADA

THE UNIVERSITY OF MELBOURNE

ABSTRACT

The Residential Tenancies Act (RTA) of Victoria establishes the legal framework governing rental accommodations within the state. It sets out the rights and responsibilities of tenants and landlords, ensuring both parties understand their obligations. This includes defining the terms of rental agreements, such as rent amounts and lease durations, as well as procedures for managing rental bonds and handling rent increases. The RTA also mandates standards for property maintenance, outlining the responsibilities of landlords to maintain properties in good repair and specifying procedures for tenants to request necessary repairs.



Additionally, the RTA governs the termination of tenancies, detailing the grounds for eviction and the notice periods required from both tenants and landlords. Dispute resolution mechanisms are also outlined, providing avenues for resolving conflicts through the Victorian Civil and Administrative Tribunal (VCAT). The Act further prohibits discrimination in the rental process based on various factors, ensuring fairness and equity in housing opportunities for all residents of Victoria.

Understanding the RTA is crucial for tenants to know their rights regarding living conditions and fair treatment, as well as for landlords to uphold their responsibilities in maintaining properties and managing tenancies effectively. Consumer Affairs Victoria oversees compliance with the RTA, offering guidance and support to both tenants and landlords navigating the complexities of rental agreements and disputes within the state.

LET'S GET STARTED

The Residential Tenancies Act (RTA) in Victoria, Australia, provides a comprehensive framework that regulates the relationship between landlords and tenants in the rental housing market. It covers a wide range of aspects to ensure fair and equitable treatment for all parties involved.

Firstly, the RTA establishes the legal requirements and standards for residential tenancy agreements. This includes specifying what must be included in rental contracts, such as rent amounts, lease durations, and any additional terms agreed upon by both parties.



Secondly, the RTA outlines the rights and responsibilities of tenants and landlords. Tenants have the right to quiet enjoyment of the property and are responsible for paying rent on time. Landlords, on the other hand, must maintain the property in a reasonable state of repair and adhere to health and safety standards.

Thirdly, the RTA addresses the collection and management of rental bonds (security deposits) and regulates procedures for rent increases. It ensures that both tenants and landlords understand their financial obligations and rights regarding these matters.

Fourthly, the RTA provides guidelines for property maintenance and repairs. It stipulates the landlord's obligations to ensure the property is maintained in good condition and outlines procedures for tenants to request necessary repairs or maintenance.

Fifthly, the Act covers the termination of tenancies, detailing the grounds for eviction and the notice periods required from both parties. This section ensures that tenancies can only be terminated under lawful circumstances and with appropriate notice periods.

Sixthly, the RTA includes provisions for resolving disputes between tenants and landlords. It establishes the Victorian Civil and Administrative Tribunal (VCAT) as the primary venue for handling disputes related to tenancy matters, providing a formal process for mediation and adjudication.

Lastly, the Act prohibits discrimination in the rental process based on various protected characteristics such as race, gender, disability, and family status. It aims to promote fairness and equal treatment in access to rental accommodation across Victoria.

Overall, the RTA plays a crucial role in defining and regulating the rights and responsibilities of tenants and landlords, ensuring a balanced and lawful rental housing market in Victoria. Understanding the provisions of the RTA is essential for both tenants and landlords to navigate their roles effectively and to resolve any disputes that may arise during the tenancy period.

WHAT IS A LEASE?

A lease is a contract outlining the terms under which one party agrees to rent an asset—in this case, property—owned by another party. It guarantees the lessee, also known as the tenant, use of the property and guarantees the lessor (the property owner or landlord) regular payments for a specified period in exchange. Both the lessee and the lessor face consequences if they fail to uphold the terms of the contract. A lease is a form of incorporeal right.



Understanding a Lease

Leases are legal and binding contracts that set forth the terms of rental agreements in real estate and real and personal property. These contracts stipulate the duties of each party to effect and maintain the agreement and are enforceable by each. For example, a residential property lease includes:

- The property address
- Landlord and tenant responsibilities
- The rent amount
- A required security deposit
- Rent due date
- Consequences for breach of contract

- The duration of the lease
- Pet policies
- Other essential information

Not all leases are designed the same, but all of them have some common features. These include the rent amount, the due date of rent, the expiration date of the lease. The landlord requires the tenant to sign the lease, thereby agreeing to its terms before occupying the property.

How Do Leases Work?

Leases are generally legally-binding contracts between two parties: the lessor and the lessee. They involve a piece of property rented out by the owner (the lessor) to the lessee or the tenant. Leases can be verbal agreements but are normally drawn up in writing. Both parties agree to the terms of the lease, including the rental amount, length of time for the contract, as well as any consequences that may result if either party doesn't uphold the terms and conditions of the contract.

WHAT IS THE RESIDENTIAL TENANCIES ACT, VICTORIA?

The Residential Tenancies Act (RTA) in Victoria, Australia, is a legislative framework that governs the rights and responsibilities of tenants and landlords in the residential rental market. It sets out the legal requirements and standards that both parties must adhere to during the tenancy period.

Key aspects covered by the Residential Tenancies Act include:

1. **Rental Agreements:** Specifies the terms and conditions of tenancy agreements, including rent amounts, lease durations, and any additional terms agreed upon by both parties.
2. **Rights and Responsibilities:** Defines the rights and duties of tenants and landlords. This includes the tenant's right to a habitable dwelling and the landlord's responsibility to maintain the property in good repair.
3. **Rental Bonds:** Regulates the collection and management of rental bonds (security deposits) to protect landlords against property damage or unpaid rent.

4. Rent: Sets guidelines for rent increases, frequency of payments, and procedures for handling overdue rent.



5. Property Maintenance: Establishes the landlord's obligations regarding property maintenance and repairs. It also outlines procedures for tenants to request repairs and maintenance.

6. Termination of Tenancy: Specifies grounds and procedures for terminating a tenancy, including notice periods required from both tenants and landlords.

7. Dispute Resolution: Provides mechanisms for resolving disputes between tenants and landlords, typically through the Victorian Civil and Administrative Tribunal (VCAT).

8. Discrimination: Prohibits discrimination in renting based on factors such as race, gender, disability, and family status.

Consumer Affairs Victoria oversees compliance with the RTA and provides information and support to both tenants and landlords. The RTA aims to ensure fair and equitable practices in the rental housing market, protecting the interests of both tenants and landlords while promoting stable and respectful tenancy arrangements throughout Victoria.

BOND AMOUNTS AND PAYMENTS IN TENANCY

A bond is a payment that rental providers (landlords) can request at the start of a rental agreement (lease). The bond is held by the Residential Tenancies Bond Authority (RTBA) during the rental period.

Bonds cover some costs rental providers may have to pay when the renter moves out.

The bond and rent are separate payments. The bond cannot be used to pay rent.



Maximum bond amounts

In most cases, a bond cannot be more than one month's rent.

A rental provider can only ask for a higher bond when either:

- the weekly rent for the property is more than \$900
- VCAT has set a higher bond for the property. They might do this because of the character of the property or the quality of the fittings and furniture.

There is no rule about maximum bond in these cases.

Before March 2020, rental providers could also ask for a higher bond if they planned to live in a property at the end of the rental period. This does not apply to agreements signed after March 2020.

There are different rules for residents of rooming houses, caravan parks and residential parks.

Maximum bond amount for rooming house residents

For residents in rooming houses, the maximum amount of bond depends on the type of agreement they have.

The bond cannot be more than 28 days' rent for residents on a fixed term rooming house agreement.

The bond cannot be more than 14 days' rent for residents who are not on fixed term agreements.

A rooming house is a property where 4 or more people can occupy the rooms. Each resident has an individual agreement with the rooming house operator. This makes it different to a share house where everyone signs the same agreement. Find out more about rooming house agreements.

Maximum bond amount for caravan park residents

The bond cannot be more than 1 month's rent or hiring charge in a caravan park.

A park owner cannot ask for a bond unless the parties have a written residency agreement.

Someone renting a caravan and a site separately may have to pay 2 separate bonds: a bond for the caravan and another for the site.

Maximum bond amount for part 4A park residents who own their moveable dwelling

The bond for site tenants cannot be more than the equivalent of 1 month's rent if the rent is \$900 a week or less.

A site tenant is someone who owns a moveable dwelling and rents a site for it in the caravan park or residential park they live in. A movable dwelling is also called a manufactured home or relocatable home.

How and when bonds are paid

There is no specified timeframe for when to pay bond, but most rental providers will ask for it before renters move in. The rental provider may give the renter a notice to vacate if they do not pay the bond as required under the agreement.

During a rental agreement, bonds are held by the RTBA, an independent government body. Bonds are held in trust so that renters and rental providers have equal say in how bonds should be repaid at the end of a rental agreement.

First, renters pay bond to the rental provider. Then, rental providers must lodge the bond with the RTBA.

If a rental provider asks for a bond, they must give the renter 2 copies of the condition report (or 1 electronic copy) before they move in. The renter should check the condition report can make comments to record their own notes about the condition of the property. They must return the condition report to the rental provider within 5 business days of moving in.

There are rules about what happens to the bond after the renter has paid:

The rental provider must lodge the bond with the RTBA within 10 business days (does not include weekends and public holidays) of receiving it.

REPAIRS AND MAINTENANCE IN TENANCY

In the context of tenancy under the Residential Tenancies Act (RTA) in Victoria, repairs and maintenance are critical aspects that define the responsibilities of both landlords and tenants.

Landlord's Responsibilities:

1. **Maintaining Habitable Conditions:** Landlords are obligated to ensure that the rental property is maintained in a reasonable state of repair, suitable for habitation throughout the tenancy.

2. **Urgent Repairs:** Landlords must promptly attend to urgent repairs that affect the tenant's health, safety, or security. Examples include issues with gas, electricity, water supply, heating, or structural damage.

3. **Non-Urgent Repairs:** Landlords are also responsible for addressing non-urgent repairs that affect the tenant's enjoyment of the property. This includes issues like leaky faucets, broken appliances (if provided), or minor structural issues that do not pose immediate health or safety risks.

4. **Providing Safe and Functional Amenities:** Landlords must ensure that all amenities provided with the rental property (such as heating, plumbing, and electrical systems) are safe, functional, and meet relevant building codes and standards.



Tenant's Responsibilities:

1. **Reporting Repairs:** Tenants are responsible for promptly notifying the landlord or property manager of any repairs needed. This notification should be made as soon as the tenant becomes aware of the issue.
2. **Allowing Access for Repairs:** Tenants must allow reasonable access to the property to facilitate repairs and maintenance. Landlords typically need to provide notice and arrange a suitable time with the tenant, unless the repair is urgent.
3. **General Maintenance:** Tenants are responsible for maintaining cleanliness and care of the property. This includes tasks like regular cleaning, yard maintenance (if applicable), and minor maintenance tasks agreed upon in the tenancy agreement.

Process for Handling Repairs:

1. **Notice to Landlord:** Tenants should notify the landlord or property manager in writing about any repairs needed, keeping a record of all communication.
2. **Landlord's Response:** Upon receiving notice, the landlord should promptly assess the repair request. For urgent repairs, the landlord must attend to the issue as soon as possible. For non-urgent repairs, the landlord should schedule a time to address the issue within a reasonable timeframe.
3. **Resolution of Disputes:** If there is a disagreement between the tenant and landlord regarding repairs or maintenance, either party can seek assistance from Consumer Affairs Victoria or apply to the Victorian Civil and Administrative Tribunal (VCAT) for resolution.

Understanding these responsibilities helps maintain a harmonious tenancy, ensuring that the property remains in good condition for the duration of the lease while protecting the rights of both landlords and tenants under the RTA in Victoria.

WHAT IS DISCRIMINATION AND VICTIMIZATION IN TENANCY?

Discrimination means being treated unfairly or not as well as others because of a characteristic like age, gender, race or marital status (whether you're married or not).

Types of unlawful discrimination

Under anti-discrimination laws, there are two types of unlawful discrimination: direct discrimination and indirect discrimination.



Direct discrimination

Under the Equal Opportunity Act 2010 (Vic), direct discrimination is when someone treats you badly or unfavourably, or tries to treat you unfavourably, because of your protected characteristic.

For example, a person with schizophrenia is refused accommodation in a caravan park because the manager believes that a caravan park is not a suitable place for a person with a mental illness to live.

Under Commonwealth anti-discrimination laws, you need to show that the person has treated you less favourably than they would treat someone in similar circumstances who does not have the same protected characteristic. This means that you need to show that:

- the reason, or one of the reasons, that the person treated you badly is because of your protected characteristic such as your race, sex or disability, and
- the person treats, or would treat, others without your protected characteristic better than they treated you in similar circumstances.

Indirect discrimination

Indirect discrimination is when an unreasonable requirement, condition or practice disadvantages people with certain protected attributes.

With indirect discrimination, you need to be able to show that even though you are being treated the same as everyone else, you are put at a disadvantage because of your protected attribute. You also need to show that the requirement is not reasonable in the circumstances.

For example, an employer requires everyone to be at work by 8.20 am every morning. This is a requirement that disadvantages employees with parent/carer responsibilities, who have to drop their children off at school before attending work. This would be an unreasonable condition if it is not necessary and the only reason for this requirement is that staff meetings 'have always been held at 8.30 am'.

Victoria's discrimination laws

In Victoria, it is against the law for someone to discriminate against you because of certain protected characteristics. These are:

- age
- breastfeeding
- gender identity
- disability (which also includes discrimination based on having an assistance aid supporting a person with disability – this includes equipment like a wheelchair or cane, an assistance dog or a person providing assistance or services to them)
- employment activity (this means asking your employer about your entitlements, or raising a concern that you are not receiving your entitlements)

- industrial activity
- profession, trade or occupation
- lawful sexual activity
- marital status
- status as a parent or carer
- physical features
- pregnancy
- race
- sex
- sexual orientation
- sex characteristics (physical features relating to sex)
- political or religious beliefs or activities
- an expunged homosexual conviction (a person who has successfully applied to have their historic homosexual conviction removed from the record)
- a spent conviction (some kinds of convictions may be 'spent', and not appear on a person's criminal record, if they do not reoffend within a certain period)
- personal association with anyone who has any of these characteristics.

These are often referred to as 'protected attributes' or 'protected characteristics'.

The Victorian Equal Opportunity and Human Rights Commission is responsible for overseeing Victoria's discrimination laws. See their website for a full list of the areas and types of discrimination or call the commission's free enquiry line on 1300 292 153.

Commonwealth discrimination laws

There are also Commonwealth discrimination laws that protect people's rights in public life and when dealing with Commonwealth Government departments and agencies.

There are specific Acts that prohibit discrimination on the grounds of:

- age: the Age Discrimination Act 2004

- sex, pregnancy, marital status, family responsibilities, sexual orientation, gender identity, intersex status and relationship status: the Sex Discrimination Act 1984
- race, nationality, ethnicity, descent: the Racial Discrimination Act 1975
- disability: the Disability Discrimination Act 1992
- sexual preference, trade union activity, political opinion, religion or social origin (in employment only).

The Australian Human Rights Commission is responsible for overseeing Commonwealth anti-discrimination and human rights laws. See their website for information about discrimination on the grounds of age, sex, race, disability and other protected rights.



Victimisation

People are often concerned about making a complaint about discrimination if they have a continuing relationship with the person responsible (like an employer). They often worry they will be victimised (treated badly or unfairly) if they make a complaint.

However, victimisation is also unlawful under discrimination laws.

Victimisation is when you are disadvantaged in some way, or threatened with a disadvantage, because you have:

- made a complaint of discrimination or sexual harassment
- provided information or documents about a complaint of discrimination or sexual harassment
- asserted your rights, or supported someone else's rights, under anti-discrimination laws
- alleged that a person has acted unlawfully under anti-discrimination laws.

Discriminatory questions

Generally, it is unlawful to ask a person for information about their protected attributes (for example, disability, race, pregnancy) if this information could be used in a discriminatory way.

For example, during an interview an employer asks a female job applicant whether she has parenting responsibilities 'that keep her busy'. The applicant tells the employer that she has two children in primary school. She does not get offered the permanent full-time position, despite being the best person for the role. Instead, she is only offered a part-time contract position for three months.

If you think this has happened to you, get legal advice.

Discrimination law exceptions

Some forms of discrimination are not against the law. There are exceptions which are like 'defences' to discrimination. Some examples of exceptions are where:

- some services or benefits are only given to people with protected characteristics, such as people with a disability
- the action taken is necessary to protect the health and safety of a person or the general public
- other laws which allow discrimination, like only employing people as drivers if they are old enough to hold a licence.

HOW TO TELL YOUR LANDLORD YOU'RE MOVING OUT OR GIVE NOTICE TO VACATE?

If you're coming to the end of the term of your rental lease, your landlord is expecting you to do one of two things: Sign a new lease or move out. If you are choosing to do the latter, though, you must still communicate your intentions to your landlord in writing. After all, a lease is a legal contract.

Yours likely indicates you are required to submit to your landlord a letter known as a notice to vacate. Read on to learn more about how to write and when to submit this simple yet important document.



What Is a Notice to Vacate?

A notice to vacate is a letter written by a tenant to a landlord, stating that they will not be seeking to renew their lease at the end of the lease term.

The letter usually indicates why the tenant is moving out and when they will vacate their apartment. It also includes the tenant's cell phone number, email address and a postal forwarding address so the landlord can remit the security deposit, if applicable, as well as remain in touch should there be any questions or concerns after the tenant vacates the premises.

Step by Step Guide to Writing a Notice to Vacate

1. Read Your Rental Agreement

Rental agreements are required reading before you sign them, but it's equally important to read them when you're getting ready to end them, too. The moment you think you might be moving, read your rental agreement to learn the window of time you have to inform your landlord of your intent to vacate at the end of the lease term.

Are you moving out sooner? Keep in mind that if you are vacating with months to go on your lease term, you'll likely have to pay a penalty—this is for the landlord to recoup rental income loss in case they cannot rent out your apartment soon after you vacate it.

2. Put Your Notice to Vacate in Writing

Even if you have had a conversation with your landlord about moving out at the end of your lease, you should still put your notice to vacate in writing and send it to them. This is to avoid any misunderstandings; it is easy to dispute a conversation between two people, but not a letter shared between the same parties.

3. How to Deliver the Letter

In the digital age, you might be wondering if you even need to print out your notice of intent to vacate on paper and mail it, or whether email will suffice. While email is an acceptable form of professional communication, you should still confirm with your landlord which is the best method of correspondence to reach them. If it is by email, send the letter as an attachment, not in the body of the email. This way, the

landlord can easily print or save the letter for their records separately from their email inbox..

4. Keep Records

This could be as simple as making a copy of the letter you've mailed or saving the email you sent to the landlord. To save time digging through the sent folder in your email—and to have some assurance that the email was indeed sent—add your email to the CC or BCC field of the email. Then, when it pops up in your inbox, you can flag it for future reference.

WHAT HAPPENS IF YOU BREAK A RENTAL LEASE IN VIC?

Nothing is more challenging than breaking a rental lease early. Sometimes, tenants are left with no other option than leaving a rental property before the end of a tenancy. According to the Residential Tenancy Laws in Victoria, tenants/renters in a fixed-term rental agreement can terminate or leave the contract early. Still, they should provide a valid reason because it can be expensive.

As a responsible tenant, you should always remember that a rental provider or a landlord can ask you to pay the 'lease break' cost to compensate for their losses. So, break the lease only if you have hardship due to job loss, illness, relocation, etc. Also, give notice of intention to vacate as early as possible.

If you are new as a renter in Melbourne and want to know what happens if you break a rental lease, keep reading the guide, tips and tricks shared below in the article. It includes the penalties you may incur if you terminate the lease early and useful tips for doing it with minimal loss.

What Happens If You Break Your Lease Early?

It is important to remember that breaking a lease early means breaching the rental agreement. This means you have to pay compensation to cover the losses of a rental provider.

However, you can end your fixed-term lease agreement before it ends without penalties. The legally-specified reasons are:

- Hardships due to illness or job loss
- The rental property doesn't meet the minimum standard before the tenant moves in
- A long-term rental agreement was verbal
- The tenant is relocating to social housing
- The tenant requires temporary crisis accommodation
- Note: Make sure you provide all the documentary evidence pieces and give the minimum amount of notice (28 days or 14 days).

If you are moving out of a rental property at the end of your tenancy, hire professionals for the best end of lease cleaning Melbourne and claim your full bond back.

However, if you are breaking your lease without any prior notice or a legally specified reason, be ready to incur the lease break fees or costs.



Costs Or Fees For Breaking A Lease In Victoria

The lease-break cost a tenant has to pay depends on the type of rental agreement. These are the most common costs or fees included in the agreement.

Cost For Lost Rent

If you break a lease early, the rental provider may ask you to pay for the lost rent. According to the VCAT, you must pay 1 month of rent for every 12 months remaining on your tenancy agreement if it is longer than 5 years.

For instance:

- if 3 years left in your tenancy, pay 3 months of rent
- If 2 years left in your agreement, pay 2 months of rent

Advertising Costs

You may have to cover the costs if the rental provider pays to advertise the property. However, if the cost is too high, you can apply to VCAT, and they will make the right decision for both parties.

Re-Letting Fees

Rental providers or landlords pay a fee to property agents, and they will find a new tenant. This is called a re-letting fee. If you have terminated the rental lease, you must pay the re-letting fee.

The amount you have to pay depends on how much of the tenancy is left. You have to pay the same fee amount as the proportion of time left on the agreement.



How To Break A Lease Without A Penalty?

Here are some of the great tips and tricks to help minimise the loss if you break the rental tenancy early:

- **Notify Your Landlord Early**

If you can't apply for early termination via VCAT, notify your landlord or property manager in writing. Mention the name and address of your landlord or property manager. Also, mention the day you are vacating the property.

Note: Make sure you give a 14-day notice to vacate from a rental property in Victoria. This will also help you prevent rental disputes without a hint of stress.

- **Check For Legal Cause To End The Lease Early**

As mentioned above, you can look for legally-specified reasons and see how you can save the penalty. It could be due to:

- Financial hardship
- Personal problems
- Inhabitable property
- Landlord Breaches the Tenancy Agreement
- Domestic Violence
- Death of a tenant

- **Perform A Thorough End Of Lease Cleaning**

It is good to perform a quality end of lease cleaning in Melbourne to get your bond money back. You can do proper research and hire experts to spruce up all the rooms and the outdoor areas to return the property in a reasonably clean condition.

- **Cover The Costs Of Breaking Your Lease**

Make sure you cover the costs of breaking your tenancy and pay the advertising cost, lost rent cost, and re-letting fees on time. You may also need to help your landlord to find a new tenant to reduce the costs.

On the move-out day, you are expected to hand over all the keys to the property manager and ensure everything is in the same condition as it was at the start of your tenancy. For that, check the initial condition report and compare the condition.

Ultimately, It is good to avoid breaking your rental lease if there is no emergency or hardship. However, you need to know your rights as a tenant and provide legally specified reasons for terminating your lease to reduce lease-break costs and penalties.



CONCLUSION

In conclusion, understanding the Residential Tenancies Act (RTA) in Victoria is essential for both landlords and tenants to navigate the rental housing market effectively and responsibly. The RTA establishes clear guidelines for rental agreements, rights, and responsibilities, ensuring fair treatment and promoting harmonious relationships between parties. It outlines procedures for handling rent, bonds, repairs, and termination of tenancies, as well as mechanisms for resolving disputes through bodies like the Victorian Civil and Administrative Tribunal (VCAT). By adhering to the provisions of the RTA, landlords can maintain their

properties in compliance with legal standards, while tenants can secure safe and habitable living conditions. Overall, a comprehensive understanding of the RTA fosters transparency, accountability, and respect within Victoria's rental sector, benefiting both landlords and tenants alike.

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