

Renters rights rundown

For Victorian Council of Social Service



Presented by: Ben Cording, Lead Community Education Lawyer



Acknowledgement of Country

In the spirit of reconciliation, Tenants Victoria and those gathered today acknowledge the Traditional Custodians of country throughout Australia and their connections to land, sea and community.

We pay our respect to their Elders past, present and emerging, and extend that respect to all Aboriginal and Torres Strait Islander peoples.



Disclaimer

These slides are designed for the purpose of information, and are not a substitute for legal advice.

If you need assistance or advice in a specific area:

- call Tenants Victoria on (03) 9411 1444 or
- email via Tenants Victoria's portal on our website tenantsvic.org.au



About Tenants Victoria



- Peak body for the state's almost 2 million renters.
- Formed in 1974 when renters living in an apartment block in Parkville came together to challenge their landlord about repairs and rising rents.
- Tenants Victoria works to empower renters by offering legal help, renter rights education and training.

What is in this presentation



→ Changes in rental laws since March 2021

→ Tips for renters and VCAT

→ Finding help

→ Changes in rental laws since March 2021

Eviction



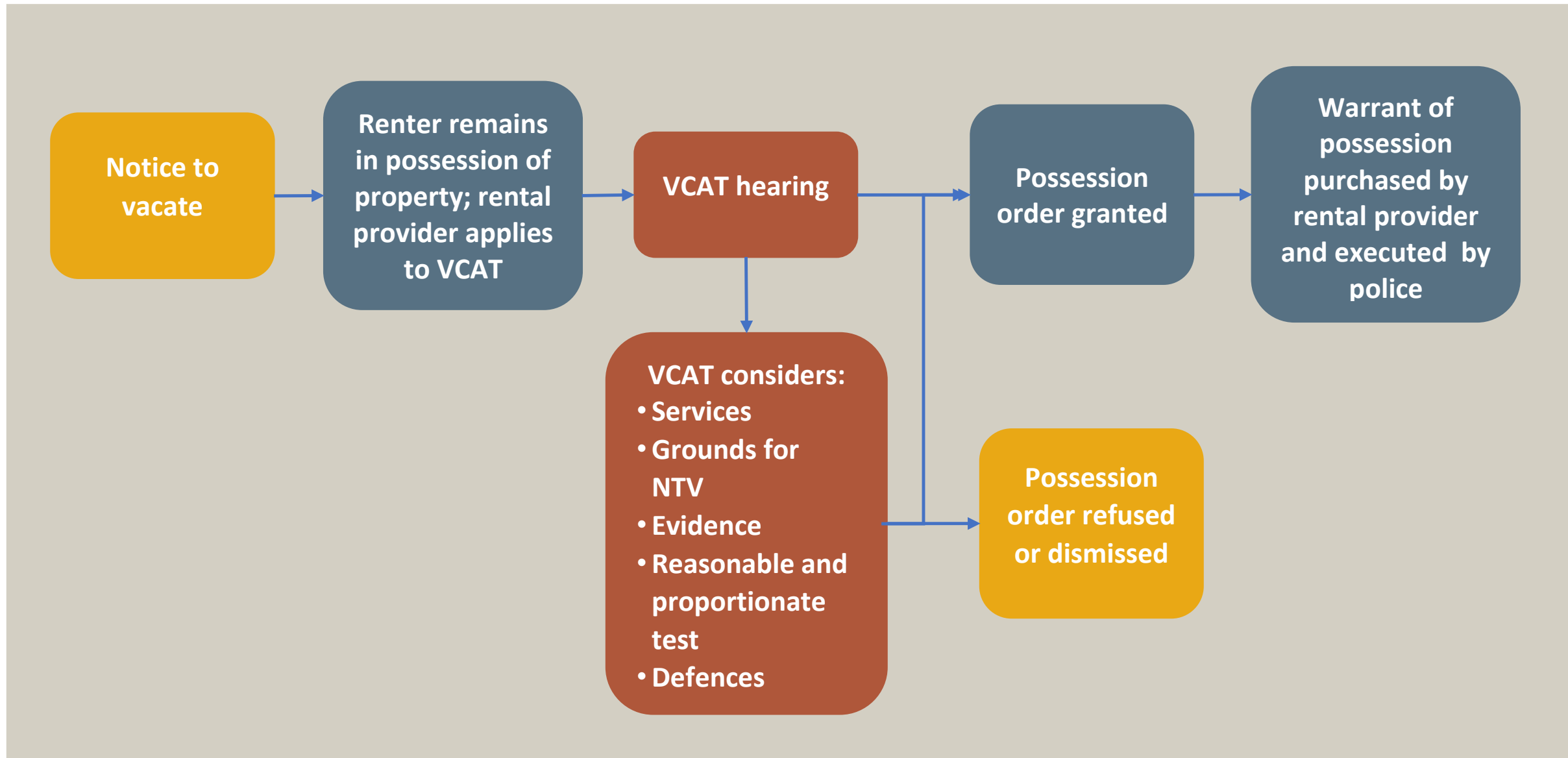
- ‘No reason’ notice to vacate has been abolished.
- A rental provider (new name for landlord) can only end an agreement for ‘end of fixed term’ in relation to the end of the first fixed-term rental agreement (new name for lease).
- Evidence is mandatory for ‘no fault’ notices to vacate, such as sale, or rental provider moving in.
- Reasonable and proportionate test introduced in relation to evictions:
 - This means that the renter’s medical health, treatment and prospect of change in behaviour are all factors that can now be considered, as well as the impact and risk of the renter becoming homeless.

Eviction (cont.)



- New ‘threat and intimidation’ notice to vacate:
 - This applies where the renter or their visitors have seriously threatened the rental provider, real estate agent or their contractor.
- Compliance orders can be given instead of evictions in some circumstances – this is particularly relevant for complex behaviour matters .
- ‘No pets’ notice to vacate
 - Despite the name, the notice can only be given where the renter refuses to remove the pet as required by an order of VCAT.
- Direct discrimination can be a defence to certain ‘no fault’ notices to vacate, such as sale of the property or repairs and renovation.

Eviction process



Rent arrears



If your rent is 14 days overdue, the rental provider can give a 14-day notice to vacate.

Renters may get a payment plan if they can show VCAT that:

- They can continue to afford and pay the normal rent, and
- They can pay the rent off over a reasonable time

VCAT can either:

- Give a payment plan, or
- End the rental agreement:
 - VCAT can delay the purchase of the warrant to evict for up to 30 days.

Overdue rent process



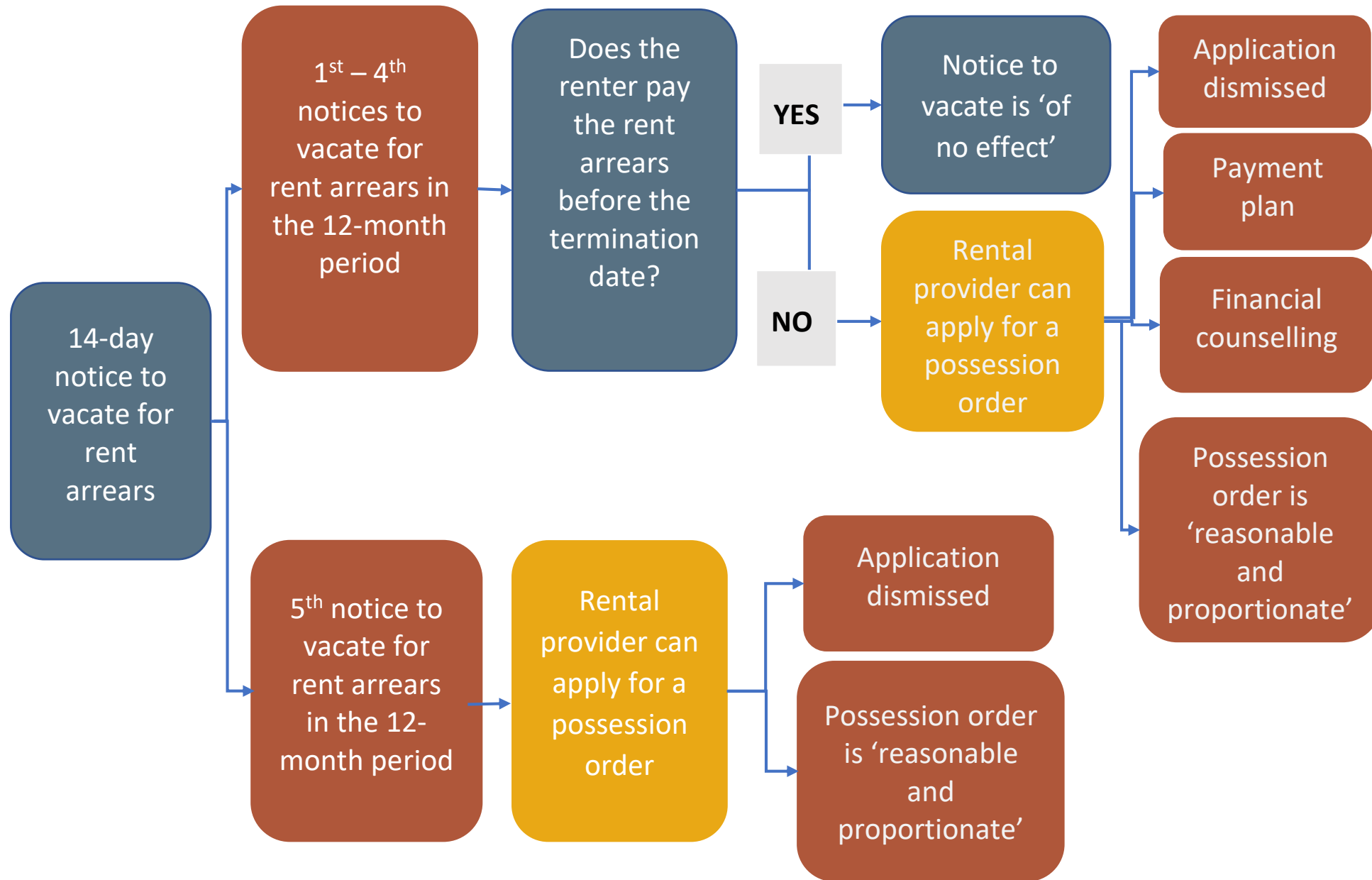
The new laws also introduced a '5 strikes' framework.

If a renter gets more than 4 notices to vacate in a 12-month period, VCAT cannot order a payment plan. The 12 months resets on the anniversary of the start of the initial rental agreement.

Important: for any notice to vacate for rent arrears there is a risk that the renter will be evicted if they can no longer afford the rent.

For more information see: <https://tenantsvic.org.au/advice/during-your-tenancy/rent-arrears/>

Overdue rent flow chart



Starting a rental agreement



- Rents must be advertised at a fixed price and rental bidding is banned.
- There are now mandatory disclosure requirements.
- Some questions are prohibited.
- Misleading and deceptive conduct added to the Residential Tenancies Act.
- There are now minimum standards for rental properties.
- Equal Opportunity Act and discrimination laws are incorporated into the Residential Tenancies Act.
- A copy of the keys must be given to each person on the rental agreement.
- Specialist Disability Accommodation (SDA) was moved from the Disability Act to the Residential Tenancies Act.

During a rental agreement



- Clarification on the rental provider's duty to ensure property is in good repair regardless of age or character of the dwelling.
- Consent for pets cannot be unreasonably withheld.
- Therapeutic animals given greater recognition.
- Modifications to the home now have a legal framework – includes energy efficiency, security and disability modifications:
 - VCAT applications must be heard within 5 days.

During a rental agreement (cont.)



- From today, 29 March 2023, gas and electrical checks must be done every 2 years.
- Appliance replacements must be energy efficient.
- Rental providers and renters may enter agreements on installing solar energy systems.
- Photographs and video for sales campaigns are now permitted. The process for taking photos and objecting to their use is set out in the Act.
- Renter compensation for open inspections when the rental is being sold.
- Rental agreements must specify method of rent increase and rent can only be increased once every 12 months for *most* rental agreements.

Ending your rental agreement during its term



- Renters have a greater ability to end the agreement without penalty if the renter needs care, support, or crisis accommodation or receives an offer of public or community housing.
- If the rental provider is selling, the renter can give a 14-day notice to vacate without penalty once the rental provider has given a ‘notice of intention to sell’, except when the renter has been told the property would be sold before entering the agreement.
- Consumer Affairs Victoria now issues guidelines in relation to rental issues that must be considered by VCAT when resolving disputes.

Bonds, compensation and claims



Bonds and compensation

- Final inspections – renter has a right to attend the final inspection with agent to complete exit condition report.

Claims to the RTBA

- Bond requests can be made directly to the Residential Tenancies Bond Authority (RTBA).
- Rental providers cannot obtain any of the bond by claiming directly to the RTBA unless the renter agrees
- When a renter claims the bond from the RTBA it will be released – unless the rental provider, or other person on the agreement, lodges an application to VCAT within 14 days of the claim.

Applications to VCAT



- If people anticipate a dispute about the bond, both renters and rental providers can make claims to VCAT. A renter's claim for their bond is *free*.
- Under the new laws there is no limitation period for compensation claims.
- Previously, an application was required to be lodged with VCAT with 6 years of fault or issue. Actions in the Magistrates Court are still subject to a 6-year limitation.

Family violence



- Family violence applications have been simplified.
- Creation or termination applications no longer require a ‘final intervention order’. These applications must now be heard in 3 days
- When VCAT terminates or creates a new tenancy under the family violence provision the alleged perpetrator can be required to pay the debt.
- Family violence may be a defence to certain notices to vacate.
- Modifications – including installing additional security measures and CCTV – can now be undertaken, or cannot be unreasonably refused.
- Victim survivors can seek protection for their share of the bond if there are liabilities related to family violence.

For more information see: [Tenants Victoria Family Violence Kit](#)

Interstate disputes



- Renters whose rental provider lives in another state must go through the Magistrate Court rather than VCAT as a result of an issue in the Australian Constitution that recently came to light.
- This does not apply to companies, or rental providers who live in an Australian territory or overseas.

For more information see on the Tenants Victoria's website: [Disputes involving interstate residents](#)

Rent increases



The rental provider must give the renter at least **60 days**’ written notice of a proposed rent increase. They must use Consumer Affairs Victoria’s official ‘Notice of proposed rent increase’ [form](#).

- Rent cannot be increased more than once every 12 months.
- If you get a notice of rent increase, you have the right to challenge it at VCAT if you think it is excessive.
- Consumer Affairs Victoria can provide **a free assessment** of whether the rent is excessive.

See Tenants Victoria’s website page [Rent increases](#).

→ Tips for renters and VCAT

Practical tips for renters



- Don't pay anything in cash.
- Always take photos whenever you move in and move out of a property.
 - Make sure your photos are backed up in the cloud, such as iCloud or Google Photos.
- If you are being ignored, put issues in writing, and use phrases such as:
 - 'We would like to resolve this amicably, but if I don't hear from you by [time], I will apply to VCAT.'
- Always try to be the good person in the dispute.
 - **Never refused to pay your rent.** There are other options such as Consumer Affairs Victoria's Rent Special Account. You apply to VCAT for rent to be paid into this account. The rental provider does not receive it until the issue is sorted out.
- Watch out for scams.

How to use your rights and VCAT



Step 1

- Work out what your rights are and communicate them to the person you are having the dispute with.

Step 2

- Try to negotiate an agreed outcome.
- If you reach an agreement, get it in writing and ensure both sides keep a copy of the agreement.

Step 3

- If you can't reach an agreement, in most cases you can pursue and exercise your rights at **VCAT, the Victorian Civil and Administrative Tribunal.**

VCAT



- VCAT is an official tribunal where ‘legally binding’ decisions are made.
- You use your rights as a renter at VCAT to get orders or agreements between the people involved in a dispute.
- VCAT is less formal than a court.
- Interpreters are available for free.
- Each side has the opportunity to have their say and present any evidence or witnesses.
- The decision maker, called the Member, is impartial and does not take sides in the dispute. Their job is to apply the law.

VCAT (cont.)



VCAT costs

- It costs \$67.40 to apply to VCAT.
- The application is free if you get a fee waiver. The categories for eligibility for a fee waiver include having the government Health Care Card, financial hardship and family violence. See the VCAT website at: [Concessions and fee relief | VCAT](#).
- Regardless of whether you win, lose or reach an agreement, there are generally no other costs for going to VCAT, other than if there are costs involved in your dispute.

VCAT (cont.)



Hearing times

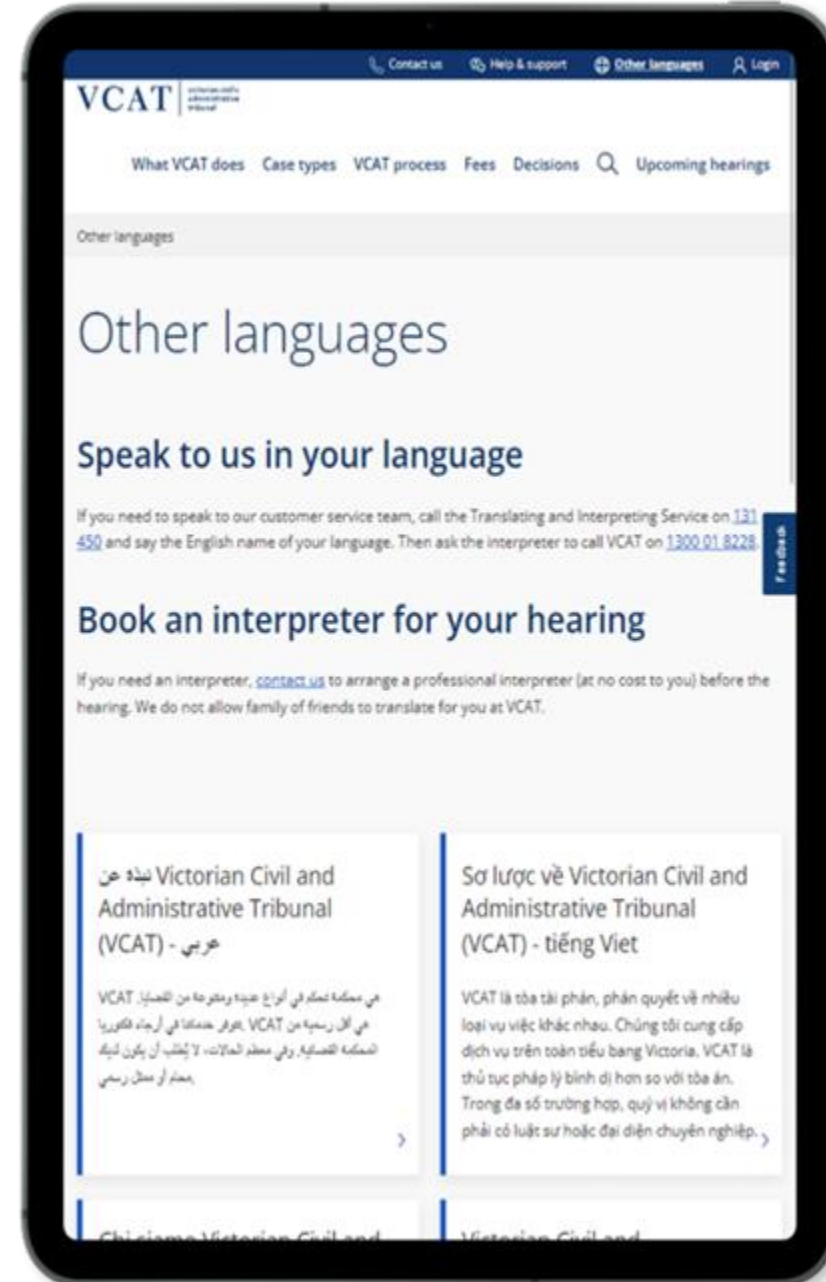
- Most hearings are quick – 15-60 minutes
- Some types of hearings take place soon after the application – 2-5 days
- Other hearings may take 3-4 weeks

For more information see the VCAT website:

www.vcat.vic.gov.au

Other languages

- You can speak to VCAT in your language. For more information see www.vcat.vic.gov.au/other-languages



VCAT: making an urgent repair application



Example of claim form

PART 9: CLAIM DETAILS - WHAT DO YOU WANT VCAT TO DO?

20. What orders do you want VCAT to make?

You need to tell us the relevant section number of the *Residential Tenancies Act 1997* that relates to your claim, if you can, and what orders you want VCAT to make.

You may also have to provide specific information or documents to support your application. If you do not provide information or documents that VCAT needs, your application may be delayed.

To see a list of common disputes we hear and their section numbers, go to www.vcat.vic.gov.au/rentingnotice.

Section 73 – urgent repairs

21. Provide more details about your claim.

You must give complete details about your claim, including:

- how you have calculated any amounts you are asking for
- why you are asking for the above orders.

This will help the respondent understand why you have made this application. If you need more space, you can attach a document setting out the details of the claim.

Since 1 June 2021 the gas heater in the lounge room has been broken, not staying lit for more than 10 minutes without going out. I have asked for this to be fixed several times and it still has not been done. I reported the problem on 1 June 2021 by email. Then I called to follow up on 4 June 2021 and again on 10 June 2021. I even sent a video showing that the heater isn't working.

I would like VCAT to make an order that the heater be fixed immediately.

Attachments:

Copies of emails sent to the agent and screen shot of calls made to the agent

→ Finding help



Finding help



Tenancy Assistance and Advocacy Program

Tenancy Assistance and Advocacy Program services assist renters in private rental housing and rooming houses. Find the service for the area you live in at the link below. The program is part of the Consumer Affairs Victoria government agency, which regulates renting laws in this state.

[Tenancy Assistance and Advocacy Program providers - Consumer Affairs Victoria](#)

Tenancy Plus Support Program

Tenancy Plus aims to prevent homelessness and support renters to stay in housing. The program supports both public and community housing. Tenancy Plus support providers will work with renters to create a support plan that is tailored to their needs and goals.

[Tenancy Plus Support Program – Homes Victoria](#)

Finding help (cont.)



Community legal centres

These centres offer free legal advice and support for many matters. Find your closest community legal centre via the link below.

[Find a Community Legal Centre - Federation of Community Legal Centres \(fclc.org.au\)](https://www.fclc.org.au)

Victoria Legal Aid

Victoria Legal Aid offers legal representation and non-legal advocacy to those who need it most:

- [Legal Aid Help Line](#)
- See also [Help in your language](#)

→ Questions?

Renter support line

(03) 9416 2577

Mon to Fri

9.30 am – 1.30 pm

Closed public holidays

**The approximate waiting time
is over 30 minutes.**

Calls are answered by lawyers,
advocates and intake workers
with specialist knowledge of
Victorian rental laws.

Social housing renters

1800 068 860

Mon to Fri

9.00 am – 4.00 pm

Closed public holidays

**For tenants in public housing
and community housing.**

Inquiries are directed to lawyers
with specialist knowledge of
Victorian rental laws.

Community worker line

(03) 9411 1444

Mon to Fri

9.00 am – 5.00 pm

Free advice or support for
workers at not-for-profit
organisations assisting people
who rent in Victoria.

Email: admin@tenantsvic.org.au
with the subject line
“Organisation enquiry”



Specialist community legal centre on tenancy matters
Level 2, 255 Bourke Street, Melbourne Victoria 3000
admin@tenantsvic.org.au | tenantsvic.org.au