

Pets

The *Residential Tenancies Act 1997*, which sets out the legal rights and responsibilities of landlords and tenants, doesn't say anything about keeping pets on a rental property. However, many leases have a 'no pets' clause that prohibits tenants from keeping pets. If you have a pet or intend to get one, you should make sure your landlord agrees to this before you rent the property.

If the landlord does agree, you should make sure the tenancy agreement (lease) states that you are allowed to keep a pet or that the 'no pets' clause on the printed lease is crossed out. Once the landlord agrees to you having a pet, they cannot change their mind.

Even if you have the landlord's consent to having a pet, problems can sometimes arise.

Damage and nuisance

The *Residential Tenancies Act 1997* and your tenancy agreement prohibit you from damaging the rental property or causing a nuisance. A nuisance is anything that unreasonably disrupts your neighbours' enjoyment of their property, such as continual barking, unpleasant smells etc.

If your pet is creating a nuisance or causing damage, the landlord can give you a Breach of Duty Notice stating that you must stop your pet from causing a nuisance or damaging the property. If you don't fix the problem within 14 days, the landlord can apply to the Victorian Civil and Administrative Tribunal for a Compliance Order, which legally requires you to comply with the Breach of Duty Notice and/or pay financial compensation.

To get a Compliance Order from the Tribunal, the landlord will have to prove that your pet is causing a nuisance or damaging the property. You will be given the chance to go to the Tribunal hearing and defend your landlord's claims.

If you do not follow the Tribunal order, the landlord can give you a 14-day Notice to Vacate. A Notice to Vacate does not mean that you have to move out. If the landlord wants to evict you, they will have to apply to the Tribunal and prove that your pet is still

causing a nuisance or damage. You can go to the Tribunal hearing and present your side of the story.

Your landlord can also give you a 14-day Notice to Vacate for a breach of duty if you have received two previous Breach of Duty Notices for the same breach.

If your landlord gives you either of these notices, you should contact the Tenants Union.

Endangering the safety of neighbours

If your pet is a danger to your neighbours, the landlord can give you an immediate Notice to Vacate. This should only be given in extreme circumstances, eg your dog has attacked the neighbour's children.

If you receive an immediate Notice to Vacate, it does not mean that you have to move out. If the landlord wants to evict you, they will have to apply to the Tribunal and prove that your pet is a danger. If you receive an immediate Notice to Vacate you should contact the Tenants Union for advice as soon as possible.

'No Pets' clause

Many tenants keep pets even when their tenancy agreement contains a 'no pets' clause, either because they had difficulty finding a property to rent which allowed pets or because they decided to get a pet after they moved in. Your legal position in this case is not clear.

If the landlord or agent finds out that you have a pet, they may tell you that you will be evicted if you do not get rid of it. This is not always true.

The Tenants Union believes that you cannot be evicted unless your landlord can prove that your pet is causing a nuisance, damaging the property or endangering the safety of neighbours. However your landlord may give you a Notice to Vacate for simply having a pet. We believe such a notice is invalid.

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Your landlord or agent may apply to the Tribunal because you have breached the 'no pets' clause. The Tenants Union believes that the Tribunal cannot legally evict you for having a pet in breach of your tenancy agreement. However in some cases the Tribunal has ordered tenants to remove their pets from the premises.

If your landlord gives you a Breach of Duty Notice or a Notice to Vacate because you have a pet, contact the Tenants Union for advice.

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