your step-by-step guide to giving your landlord a Breach of Duty Notice

TENANTS UNION of Victoria Ltd

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START HERE

If you receive a Breach of Duty Notice from your landlord, contact the Tenants Union for advice.

Has the landlord breached their duty to you under the *Residential Tenancies Act* (RTA) *1997?*

NO

Even if they have not committed a breach of the RTA, your landlord may have otherwise acted illegally or unprofessionally.

See our *Complaints about estate agents and landlords* fact sheet, or *your step-by-step guide to complaints* (see www.tuv.org.au or *Tenant News* issue 14).

YES

You may serve a Breach of Duty Notice to inform your landlord that they must fix the breach and/or pay you compensation within 14 days.

Breach of Duty Notices are available from the Tenants Union or Consumer Affairs Victoria. To complete the form, see our *Breach of Duty Notices* fact sheet or contact the Tenants Union for advice.

Send the Breach of Duty Notice by registered mail or deliver it in person. Wait 14 days (allow an extra 2 days for delivery by mail).

Was the breach fixed and/or compensation paid within 14 (or 16) days?

NO

You may apply for a hearing at the Victorian Civil and Administrative Tribunal (VCAT). At the hearing you can ask for an order that the landlord fix the breach of duty and/or pay you compensation.

At the VCAT hearing, was the landlord ordered to fix their breach of duty and/or pay you compensation?

YES

Has the landlord carried out the VCAT order and fixed the breach and/or paid you compensation?

NO

It is an offence to disobey a VCAT order. See the *Complaints about landlords and real estate agents* fact sheet for more information or contact the Tenants Union for advice.

YES

If you have a fixed-term tenancy agreement, you are entitled to serve a 14-day Notice of Intention to Vacate if you want to move out.

NO

YES

Has the landlord breached the same duty again?

YES

Have you served the landlord with a Breach of Duty Notice twice before and both times they fixed the breach, and now your landlord has breached the same duty for the third time?

YES

NO

DON'T KNOW

Your landlord has breached their duty to you under the RTA if they have failed to:

> provide clean and vacant premises
> provide you with 'quiet enjoyment' of the premises
> maintain the premises in good repair
> make sure that replacement water appliances have an A rating
> provide locks for all external doors and windows
> provide keys if locks are changed

The reasons for which rooming house and caravan park residents can serve a Breach of Duty Notice are different. Contact the Tenants Union for advice.