

Complaints about landlords and real estate agents

If you think that your landlord or real estate agent have acted illegally or unprofessionally, you should consider making an official complaint.

What the law says

The *Residential Tenancies Act 1997* sets out the rights and responsibilities of tenants and landlords in Victoria. If a landlord or their agent commits an offence under the Act, they can be prosecuted in the Magistrates' Court by Consumer Affairs Victoria and if they are convicted they can be fined. However it's up to you to make the complaint and ask Consumer Affairs to prosecute.

➔ The time limit for prosecutions is either 12 months or 3 years (depending on the offence), starting from the date that the offence was committed. However we recommend that you take action immediately.

Offences by landlords and agents

Your landlord or agent have committed an offence if they do not provide you with the necessary documents at the start of your tenancy including:

- > a Statement of Rights and Duties (booklet from Consumer Affairs Victoria)
- > a signed copy of your tenancy agreement
- > 2 copies of a signed Condition Report (if you have paid a bond)
- > the landlord or agent's full name, address, telephone and fax numbers
- > an emergency number for urgent repairs that can be used outside business hours
- > in the case of an agent, a statement as to whether or not they can authorise urgent repairs (and if so, the maximum cost they can authorise and their phone or fax number for urgent repairs)

Other offences may include:

- > trying to evict you illegally (ie without a warrant carried out by the police)
- > failing to give you a receipt for your rent payments

- > holding onto or selling any of your goods because you owe rent
- > failing to lodge your bond with the Residential Tenancies Bond Authority within 10 business days of you paying it
- > trying to charge for things that landlords or agents are not entitled to charge for (eg a property inspection, a tenancy agreement, the first rent payment card or setting up and using direct debits)
- > entering your rental property without meeting the proper notice and entry requirements or without having a reasonable excuse (see the **Privacy** fact sheet for more information)
- > failing to obey an order from the Victorian Civil and Administrative Tribunal

For more information about offences by landlords and agents, contact the Tenants Union.

How to make a complaint

Estate Agent Resolution Service

Consumer Affairs Victoria's Estate Agent Resolution Service (EARS) deals with complaints about real estate agents in Victoria. The service has been set up to help consumers, including tenants who are in dispute with an agent. You can contact EARS on ☎ 1300 737 030.

EARS can provide information, advice and dispute resolution. If a settlement cannot be reached, EARS may refer the dispute to Compliance and Enforcement at Consumer Affairs Victoria.

Making a written complaint

If you believe that your landlord or agent have committed an offence, you can write to Consumer Affairs Victoria (see sample letter overleaf). Remember to attach copies of any relevant documents. You can also lodge a written complaint online at www.consumer.vic.gov.au.

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Consumer Affairs should write back to you within a couple of weeks to confirm that they received your letter. If they tell you that they won't be investigating the matter and you want some more advice, contact the Tenants Union. If they do decide to investigate, they will contact you to get an official statement.

If Consumer Affairs decides to prosecute, you will probably have to go to court as a witness and give evidence at the hearing.

Sample letter of complaint

The following is a sample letter of complaint to Consumer Affairs Victoria:

First Line Enforcement
Consumer Affairs Victoria
GPO Box 123A
Melbourne VIC 3001

(your name)
(your current address)
(date)

Dear Sir or Madam,

Complaint about (landlord/estate agent)

Landlord: (name and address of the offending landlord if applicable)

Estate Agent: (name and address of the offending estate agent if applicable)

Premises: (address of the rented property)

As the (tenant/former tenant) of the above premises, I wish to lodge a complaint about the actions of (name of landlord and/or estate agent). I believe there has been a breach of the *Residential Tenancies Act 1997* (list the section numbers of the Act if you know them).

(Describe the actions or events leading to your complaint including names, addresses, times, dates etc.)

Please find attached copies of the following documents (list any relevant documents you are attaching to the letter).

I request that you investigate this matter promptly with a view to prosecution. I look forward to your early reply. Should you require any further information please contact me on (your current telephone number).

Yours faithfully,
(your signature)

Where else can you make a complaint?

In addition to phoning EARS and/or writing to Consumer Affairs Victoria, you also have the right to make a complaint about your landlord or agent to:

- > Real Estate Institute of Victoria (REIV)
☎ 9205 6666 (if the agent is a REIV member)
- > Equal Opportunity Commission of Victoria ☎ 9281 7100
(for harassment or discrimination)
- > Federal Privacy Commissioner
☎ 1300 363 992
(for misuse of confidential information)
- > Victoria Police
(for criminal acts or behaviour)

For more information phone the Tenants Union Advice Line on ☎ (03) 9416 2577 or contact EARS on ☎ 1300 737 030.