

Eviction

In order to evict you, the rooming house owner must:

- > give you a valid Notice to Vacate; and
- > apply to the Victorian Civil and Administrative Tribunal for a Possession Order, and if a Possession Order is granted;
- > purchase a Warrant of Possession from the Tribunal; and
- > give the Warrant of Possession to the police, which the police will use to evict you from the room.

➔ The landlord cannot have you evicted until they have taken all of the steps above. The owner cannot lock you out or personally carry out an eviction; only the police can evict you and only when they are acting on a Warrant of Possession.

Tribunal applications

Once the rooming house owner has given you a valid Notice to Vacate, they can then apply to the Victorian Civil and Administrative Tribunal for a Possession Order. They must also send a copy of the Tribunal application form to you. After that the Tribunal will send you a Notice of Hearing that tells you the time, date and place of the hearing.

➔ If you are given a Notice to Vacate and you do not want to be evicted, you should contact the Tenants Union Advice Service urgently for advice on ☎ (03) 9416 2577.

Tribunal hearings

You must go to the hearing if you do not want to be evicted. If you do not go to the hearing it is most likely that the Possession Order will be granted and you will be evicted.

By going to the hearing you will have the chance to challenge the landlord's reason for wanting to evict you. (Contact the Tenants Union for advice on whether there are grounds to challenge the notice.) If the Tribunal finds that that the rooming house owner should not have given you the Notice to Vacate, the owner will not be given a Possession Order and you will be allowed to stay.

Warrant of Possession

If the Tribunal finds that the rooming house gave you a valid Notice to Vacate and followed the proper procedure, they will grant the owner a Possession Order. This allows the owner to take out a Warrant of Possession, which gives the police the power to evict you. Once the owner has given the warrant to the police, the police usually have to carry out the eviction within 14 days (although in some special cases the Tribunal will sometimes set this at 30 days).

However, if the Tribunal grants the owner a Possession Order for you to move out on the same day as the hearing, then the owner can purchase the Warrant of Possession on the same day. If they give the warrant straight to the police, you could be evicted on the same day.

If you are likely to be evicted, it is a good idea to make arrangements before the hearing so you will have somewhere to stay, especially if you may be evicted on the same day or at short notice. If you have nowhere to go, the Tenants Union Advice Service can direct you to crisis accommodation services.

Review hearings

If you find out that a Possession Order has been granted but you didn't go to the hearing, you can apply to the Tribunal for a rehearing. You need to do this before the police evict you, as once you have been legally evicted the Tribunal has no power to get you back into the property. If possible, you should apply for an urgent review hearing by going to the Tribunal in person. If you live in the country or are unable to get to the Tribunal, you should phone the Tribunal and ask them how to apply for a review hearing, or contact the Tenants Union Advice Service.

Victorian Civil and Administrative Tribunal
55 King Street Melbourne 3000
☎ (03) 9628 9800
☎ 1800 133 055 (Freecall)
fax (03) 9628 9822

Open 9.00am to 4.30pm Monday to Friday

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When you apply for a review hearing, you should ask the Tribunal to contact the police and ask them to put a stop on the warrant until further notice. You should also call the police yourself to confirm this.

At the review hearing you will need to convince the Tribunal that you had a good reason for not going to the original hearing. If the Tribunal accepts your explanation, they will set aside their earlier decision and a new hearing will go ahead. There is no fee for applying for a review hearing.

Illegal evictions

It is illegal for a rooming house owner (or anyone acting on their behalf) to attempt to physically evict you or to change the locks. Only the police can carry out an eviction and only when they have a warrant. If the owner tries to evict you, you should call the police immediately to remove the owner from your room.

If you think that the rooming house owner is going to try to illegally evict you, you can apply to the Victorian Civil and Administrative Tribunal for a Restraining Order.

If you have been illegally evicted, you should immediately apply (in person if possible) for an urgent hearing at the Tribunal. The Tribunal can put a Restraining Order on the rooming house owner and order them to allow you to move back in.

You should also lodge a complaint with the Director of Consumer Affairs Victoria. There is a maximum penalty of \$2268.40 (at the time of printing) if the owner is convicted. You can also seek compensation for any inconvenience, costs, loss or damage to your goods caused by the owner's illegal actions.

For more information, advice or support phone the Tenants Union Advice Service on ☎ (03) 9416 2577.