

The Victorian Civil & Administrative Tribunal

The Victorian Civil and Administrative Tribunal (Residential Tenancies List) hears disputes between landlords and tenants. It is not a court, but it is able to make decisions that can be legally enforced. It is intended to be informal and cheap, and to resolve disputes quickly and fairly.

Applications

You can apply to the Tribunal if you have a problem with your landlord that you cannot resolve. It is best to try and resolve your problem by talking to your landlord or real estate agent before you apply to the Tribunal. If you decide that you want to apply, you should get advice from the Tenants Union of Victoria.

To make an application, you need to fill out the Victorian Civil and Administrative Tribunal Application form, available from the Tribunal or the Tenants Union. Follow the instructions on the form. Make sure that where the form asks you to name the landlord, you put the landlord's name and not the name of the agent. If the landlord is a company, include the ACN. If you are a public tenant, your landlord will be the Director of Housing.

At the time of printing, there is a Tribunal application fee of \$35.20. You can pay the fee by money order, cheque or credit card. If you want to pay cash, you will need to take your application to the Tribunal in person. If you can't afford the application fee you can ask to have it waived by filling out a Fee Waiver Request form. If you are unsure of the procedure, contact the Tenants Union.

➔ There is no application fee for applying for the return of your bond.

You must send a copy of your application to the landlord, preferably by registered mail. Keep the mail receipt and your copy of the application.

Notice of Tribunal hearing

You will receive a notice from the Tribunal telling you when and where your hearing is to take place. The amount of time you will have to wait for a hearing depends on the type of application and how busy the Tribunal is.

If you are unable to go to the Tribunal on the day of the hearing, you will need to get advice from the Tenants Union about requesting an adjournment. A request for an adjournment must be made at least 2 business days before the hearing and must be supported with documentation (such as a medical certificate). There is no guarantee that an adjournment will be granted, but there is a good chance if your landlord agrees to it.

➔ If you need an interpreter, you should contact the Tribunal before the date of the hearing to let them know. The Tribunal should arrange for an interpreter; otherwise you should ask for an adjournment.

Preparing your case

When you make an application to the Tribunal, you are responsible for proving your case. This means that you will have to provide evidence to support your claim. The type of evidence needed will depend on the situation. See **'A Day at the Bench' DVD Kit** or the **Tribunal Hearing Checklist** for advice on the type of evidence you should bring to a hearing, or contact the Tenants Union for advice.

Before the hearing, you should photocopy any letters or documents that you want the Tribunal to see, and arrange for any witnesses to attend on the day of the hearing. The Tribunal will not adjourn your case because you haven't got your witnesses or documents with you, and they will not make phone calls to verify your claims.

It is better to have someone give evidence in person rather than rely on a letter or statutory declaration. If a witness refuses to attend the hearing and you believe that their evidence is important, you can ask the Tribunal to issue a witness summons. You must apply for a summons before your hearing date. This is an order that a person must attend the Tribunal hearing and give evidence. Otherwise, a witness can give their evidence in a statutory declaration (available at most newsagents).

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➡ To prepare for the hearing, make a few brief notes outlining what you want to say, including a list of documents you want to show the Tribunal. Being organised is the key to presenting a good case.

Representation

Generally, each party is required to present their own case at the Tribunal. However you may be represented by a professional advocate (such as a tenancy worker) when:

- > the landlord is trying to have you evicted
- > the landlord is a professional advocate
- > the landlord is represented by a professional advocate
- > the Tribunal allows you to be legally represented

If you believe that you will need representation, you should contact the Tenants Union as soon as you receive the Notice of Hearing. You can also seek advice and possibly representation from a duty lawyer at the Tribunal.

The hearing

Make sure that you arrive at the Tribunal on time. If you are late, the hearing will go ahead without you so plan to get there at least 15 minutes before the hearing time.

After you have told the counter staff that you have arrived, you will be called into the hearing room. The 'Member' (the person who will decide your case) will ask you and the landlord or agent to take an oath on the Bible or to make an affirmation that you will tell the truth.

The way in which your case is heard will depend on the particular Member who hears your case, however usually the person who made the application will be asked to present their case first.

➡ Never lose your temper. Keep your arguments clear and to the point and try not to be intimidated by the landlord, agent or Tribunal Member. Make sure you are given the opportunity to mention everything you believe is relevant to your case before the Member makes their decision.

For more information on how to prepare for your Tribunal hearing see **'A Day at the Bench' DVD Kit** or the **Tribunal Hearing Checklist**, available from the Tenants Union.

Orders

After hearing both you and your landlord or agent, the Tribunal Member will make an 'order' which is the decision on your case. If you do not understand the order, ask the Member to explain it to you slowly. You will be sent a written copy of the order a couple of weeks after the hearing. You can ask the Member to provide written reasons for their decision, but you have to ask for this at the start of the hearing.

If you are unhappy about the decision made by the Tribunal, you can make an appeal but only in very limited circumstances. Appeals must be made to the Supreme Court and this can be very expensive. You must lodge your appeal within 28 days of the date of the order. If you want to appeal, you should get advice from the Tenants Union as soon as possible.

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

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